

**SESSION LAWS**  
OF  
**HAWAII**  
PASSED BY THE  
**ELEVENTH STATE LEGISLATURE**

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**REGULAR SESSION**  
**1982**

Convened on Wednesday, January 20  
and  
Adjourned sine die on Wednesday, April 28

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Revisor of Statutes  
Honolulu, Hawaii

## **AUTHORITY**

**Section 23G-13, Hawaii Revised Statutes, provides as follows:**

**Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.



## **PREFACE**

This volume contains all the laws of the Regular Session of 1982. The text of the laws as enacted is followed except for palpable clerical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes added at the end of corresponding laws are numbered instead of being indicated by symbols as in prior session laws. The notes clarify editorial changes and inconsistencies in text.

**SAMUEL B. K. CHANG**  
Revisor of Statutes

Honolulu, Hawaii  
July 20, 1982

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**Session Laws of Hawaii**  
**Passed By The**  
**Eleventh State Legislature**  
**Regular Session**  
**1982**

ACT 1

H.B. NO. 2011-82

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated from the general revenues of the State the sum of \$2,103,249 or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1983, including but not limited to the 1982 regular session, Eleventh State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1982 and 1983 regular sessions.

SECTION 2. There is appropriated from the general revenues of the State the sum of \$2,730,412 or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1983, including but not limited to the 1982 regular session, Eleventh State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1982 and 1983 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1982 and 1983 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1982 and 1983 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 19, 1983, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 19, 1983.

## ACT 2

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$65 per day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated from the general revenues of the State the sum of \$1,595,702 to the office of the legislative auditor for the following expenses: (a) the sum of \$1,296,140 or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1982-83, (b) the sum of \$149,562 or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission during the fiscal year 1982-83, (c) the sum of \$150,000 or so much thereof as may be necessary during the fiscal year 1982-83, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for such studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated from the general revenues of the State the sum of \$1,265,851 or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1982-83, including equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material.

SECTION 8. There is appropriated from the general revenues of the State the sum of \$337,850 or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1982-1983.

SECTION 9. As of the close of business on June 30, 1983, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved February 3, 1982.)

ACT 2

S.B. NO. 2197-82

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.  
*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate or authorize, as the case may be, funds for the payment of collective bargaining cost items in the agreement reached, pursuant to the decision of an arbitration panel, with the exclusive representative of collective bargaining unit 11 for the 1981-1983 fiscal biennium. Arbitration proceedings, conducted in accordance with Section 89-11, HRS, were not completed in time for a submittal to be made to the 1981 legislative session. The intent of this Act is to provide the necessary authorizations and appropriations to allow for the implementation of a pay raise, as stipulated in the agreement, on March 1, 1982 and October 1, 1982, and for increased meal benefits effective July 1, 1982.

**PART II**

SECTION 3. There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis and Budgeting (BUF 101) the following sums or so much thereof as may be necessary to fund, for the fiscal biennium 1981-83, all collective bargaining cost times in the agreements negotiated with the exclusive bargaining representative of collective bargaining unit 11:

	<u>FY 1981-82</u>	<u>FY 1982-83</u>
Special Funds	152,929	887,101

SECTION 4. Funds appropriated or authorized by this Part shall be allotted by the director of finance in the respective fiscal year for the purposes of this Part.

**PART III**

SECTION 5. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 6. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1982, and June 30, 1983, of the respective fiscal years shall lapse as of those dates.

SECTION 7. This Act shall take effect upon its approval.

(Approved March 31, 1982.)

**ACT 3**

H.B. NO. 2319-82

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

## ACT 4

SECTION 1. Section 603-12, Hawaii Revised Statutes, is amended to read as follows:

“§603-12 Sessions, held where. Except as otherwise provided by statute, the sessions of the circuit courts shall be held as follows: In the first circuit, at Honolulu; in the second circuit, at Wailuku; in the third circuit, at Hilo and Kona; in the fifth circuit, at Lihue.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved April 1, 1982.)

## ACT 4

H.B. NO. 1964-82

A Bill for an Act Relating to Vital Statistics.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is amended to read as follows:

“§338-17.7 Establishment of new certificates of birth, when. (a) The director of health shall establish a new birth certificate for a person born in this State upon receipt of a certified copy of a court determination of paternity together with a request from the natural mother or person having legal custody of the child that such new certificate be prepared. The surname of the child shall be that of the mother unless the decree or request provided otherwise.

(b) A new certificate of birth shall be prepared by the director of health for a child or children legitimated as provided in section 338-21.

(c) A new certificate of birth shall be prepared by the director of health for a child or children born in a foreign country upon compliance with section 338-20.5.

(d) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has examined the person and has found that the sex item on the person's birth certificate was entered incorrectly.

(e) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit of a physician that he has examined the person who has had a sex change operation and that by reason of the operation the sex designation on such person's birth record should be changed. The director of health may make a further investigation or require any further information he deems necessary.

(f) A new certificate of birth shall be prepared by the director of health for a person born in the State upon showing by a law enforcement agency that such issuance would provide for the safety of such person. The new certificate of birth shall contain such information as requested by such law enforcement agency.

[(f)] (g) When a new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate



shall be sealed and filed. Such sealed document shall be opened only by an order of a court of record.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 20, 1982.)

## ACT 5

H.B. NO. 2178-82

A Bill for an Act Relating to Aquatic Resources and Wildlife.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 187-4, Hawaii Revised Statutes, is amended to read:

“§187-4 Permits for taking aquatic life or wildlife for scientific, educational, or propagation purposes. Notwithstanding the provisions of any other law, the department of land and natural resources may take, for scientific, educational, or propagation purposes aquatic life or wildlife [except those species which are threatened or endangered.], except as prohibited by chapter 195D.

The department may issue permits to any person, subject to such restrictions as the department deems desirable, to take, in any part of the State, for scientific, educational and propagation purposes aquatic life and wildlife, the taking of which is otherwise prohibited by law [except those species which are threatened or endangered.], except as prohibited by chapter 195D. The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

Anything taken under the authority of the permit shall be accompanied by the permit while being transported, and shall be exempt from seizure while being transported, or while in possession, in accordance with the permit.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 20, 1982.)

## ACT 6

H.B. NO. 2208-82

A Bill for an Act Relating to the Use of Qualified State Appraisers as well as Independent Appraisers to Determine the Value of Remnants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-52, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

ACT 7

“(d) Appraisal. The value of the remnant or portion thereof shall be appraised by an independent appraiser, which appraisal shall take into consideration the limited market for the remnant and the resulting enhancement to an abutting owner’s property by the addition of the remnant. The value of a remnant or portion thereof which is surplus to state highway requirements and is in the inventory of such surplus remnants as of December 31, 1981 may be appraised by an employee of the State qualified to appraise lands.”

SECTION 2. New material is underscored.

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

(Approved April 20, 1982.)

ACT 7

H.B. NO. 2333-82

A Bill for an Act Relating to the Legislative Reference Bureau.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 23G-16.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§23G-16.5]] Printing of acts to be included in publications. Whenever, in any act, statutory material to be repealed is bracketed and new material is underscored as a matter of bill drafting style, the revisor, in printing the act[,] in any publication except the Session Laws of Hawaii, need not include the brackets, the bracketed material, or the underscoring. In printing the Session Laws of Hawaii, the revisor shall include the brackets, the bracketed material, and the underscoring, except when the underscoring indicates the addition of a new section of law or when the bracketed material indicates the repeal of a section of law in which case the underscoring and the bracketed material may be omitted.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved April 20, 1982.)

ACT 8

H.B. NO. 2507-82

A Bill for an Act Relating to Trials.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 603-15, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved April 20, 1982.)

Notes

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Offenses Related to Drugs and Intoxicating Compounds.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 712-1241, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

**“§712-1241 Promoting a dangerous drug in the first degree.** (1) A person commits the offense of promoting a dangerous drug in the first degree if he knowingly:

- (a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
  - (i) One ounce or more, containing [any of the respective alkaloids or salts of] heroin, morphine, or cocaine[;] or any of their respective salts; or
  - (ii) Two ounces or more, containing one or more of any of the other dangerous drugs; or
- (b) Distributes:
  - (i) Fifty or more capsules, tablets, ampules, dosage units, or syrettes containing one or more dangerous drugs; or
  - (ii) One or more preparations, compounds, mixtures, or substances of an aggregate weight of:
    - (A) One-eighth ounce or more, containing [any of the respective alkaloids or salts of] heroin, morphine, or cocaine[;] or any of their respective salts; or<sup>1</sup>
    - (B) One-half ounce or more, containing any other dangerous drug; or
- (c) Distributes any dangerous drug in any amount to a minor.”

SECTION 2. Section 712-1242, Hawaii Revised Statutes, is amended by amending subsection (1)<sup>2</sup> to read as follows:

**“§712-1242 Promoting a dangerous drug in the second degree.** (1) A person commits the offense of promoting a dangerous drug in the second degree if he knowingly:

- (a) Possesses fifty or more capsules, tablets, ampules, or syrettes, containing one or more dangerous drugs; or
  - (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
    - (i) One-eighth ounce or more, containing [any of the respective alkaloids or salts of] heroin, morphine, or cocaine[;] or any of their respective salts; or
    - (ii) One-half ounce or more, containing any dangerous drug; or
  - (c) Distributes any dangerous drug in any amount.
- (2) Promoting a dangerous drug in the second degree is a class B felony.”

SECTION 3.<sup>3</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.

## ACT 10

SECTION 4.<sup>3</sup> This Act shall take effect upon its approval.

(Approved April 20, 1982.)

### Notes

1. "Or" should be underscored.
2. So in original.
3. "3" and "4" substituted for "2" and "3" to correct obvious clerical error.

## ACT 10

H.B. NO. 2934-82

A Bill for an Act Relating to the Hawaii Bank Act of 1931.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-44, Hawaii Revised Statutes, is amended to read as follows:

**"§403-44 Preferred stock.** Notwithstanding any other provision of law, any bank may, with the approval of the director of regulatory agencies and by vote of shareholders owning at least two-thirds of the stock in the bank then outstanding, upon not less than five days' notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock in such amount and with such par value as shall be approved by the director, and make such amendments to its articles of incorporation as may be necessary for this purpose. In the case of any newly organized bank which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No bank shall issue any certificate of preferred stock unless the shares represented by the certificate have been fully paid, but if the shares have been fully paid, a certificate of preferred stock may be issued therefor, regardless of whether the par value of all preferred stock approved as hereinbefore provided has been fully paid.

The holders of the preferred stock shall be entitled to cumulative dividends at [a] any rate [not exceeding six per cent a year.] fixed by the bank. The holding of the preferred stock (whether as owner or pledgee) by any agency or entity created or established under the laws of the United States for the purpose of furnishing financial assistance to banks, shall not render the corporation, agency, or entity liable for assessments to restore impairments in the capital in such banks as now provided by law with reference to ordinary stockholders of banks. Notwithstanding any other provision of law, the holders of the preferred stock shall have such voting rights, and the stock shall be subject to retirement in such manner and on such terms and conditions, as may be provided in the articles of incorporation with the approval of the director.

No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock have been paid in full. If the bank is placed in liquidation or a conservator is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock have been paid in full the par value of their stock plus all accumulated dividends.

Any statements with respect to amounts of capital, capital stock, subscribers for or owners of capital stock, or transfers thereof, required by sections 403-23, 403-28, 403-29, 403-32, or 403-39 to be set forth in any application, certificate, articles of

incorporation, charter, or other document or record, shall also be required to include any additional information with respect to preferred stock as may be required or deemed advisable by the director.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 20, 1982.)

## ACT 11

H.B. NO. 2018-82

A Bill for an Act Relating to Applicability of General Insurance Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 432-31, Hawaii Revised Statutes, is amended to read as follows:

“**§432-31 General insurance law applicable.** The following provisions of the Hawaii Insurance Law, chapter 431, shall apply to title insurance and to title insurers:

- (1) Sections 431-14 to 431-18; 431-20;
- (2) Sections 431-31 to 431-45;
- (3) Sections 431-51 to 431-73;
- (4) Sections 431-81 to 431-85; 431-91 to 431-94; 431-96 to 431-110; 431-112; 431-113;
- (5) Sections 431-121 to 431-139;
- (6) Sections 431-141 to 431-150;
- (7) Sections 431-161 to 431-167;
- (8) Sections 431-261 to 431-263; 431-267; 431-270 to 431-274;
- (9) Sections 431-281 to 431-312;
- (10) Sections 431-316 to 431-321;
- (11) Sections 431-346 to 431-357;
- (12) Sections 431-361 to 431-407;
- (13) Sections 431-421 to 431-426; 431-428; 431-431; 431-443 to 431-446;
- (14) Sections 431-641 to [431-646;] 431-647; and
- (15) Sections 431-651 to 431-686.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 22, 1982.)

## ACT 12

H.B. NO. 1042

A Bill for an Act Relating to the Filing of Financing Statements by Consignors and Lessors Under the Uniform Commercial Code.

ACT 13

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 490, Article 9, Part 4, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§490:9- Financing statements covering consigned or leased goods. A consignor or lessor of goods may file a financing statement using the terms “consignor,” “consignee,” “lessor,” “lessee” or the like instead of the terms specified in section 490:1-402.<sup>1</sup> The provisions of this part shall apply as appropriate to such financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (section 490:1-201(37)). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.”

SECTION 2. New material is underscored.<sup>2</sup>

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

(Approved April 23, 1982.)

Notes

1. Probably should read “490:9-402”.

2. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

ACT 13

H.B. NO. 1094

A Bill for an Act Relating to Inspection of Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older, except antique motor vehicles as defined in section 249-1,
- (2) Ambulances,
- (3) Trucks, truck-tractors, semitrailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds,
- (4) Buses,
- (5) Rental or U-drive motor vehicles,
- (6) Taxi cabs.”

SECTION 2. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All other vehicles, including antique motor vehicles as defined in section 249-1, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.”

SECTION 3. Statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.  
(Approved April 23, 1982.)

ACT 14

H.B. NO. 2028-82

A Bill for an Act Relating to Hotels.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 445-98, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved April 23, 1982.)

Notes

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

ACT 15

H.B. NO. 2029-82

A Bill for an Act Relating to Billiards and Bowling Alleys.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sections 445-51, 445-52, and 445-53, Hawaii Revised Statutes, are repealed.

SECTION 2. Section 445-54, Hawaii Revised Statutes, is amended to read as follows:

**“[[§445-54]] Ordinances, effect. Each of the counties is hereby authorized to enact and enforce ordinances regulating the presence of persons under the age of eighteen years on or about premises where [licensed] billiard or pool tables are had and operated [pursuant to the provisions of section 445-52] and to prohibit intoxicating liquor on the premises.”**

Upon each of the counties enacting an ordinance pertaining to the presence of persons under the age of eighteen years on or about premises where [licensed] billiard or pool tables are had or operated, then so far as that county is concerned, such ordinance shall have full force and effect and shall supersede sections 577-19 and 577-20 [to the extent applicable to premises where licensed billiard or pool tables are had or operated].”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 1982.)

Notes

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Fair Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 515-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If within sixty days after the complaint is filed it is determined by the department that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the department shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the department deems proper. [The respondent is entitled to recover from the complainant attorney’s fee, not to exceed \$100, if such cost is incurred.]”

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved April 23, 1982.)

A Bill for an Act Relating to Prophylaxis for the Prevention of Blindness in the Newborn.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“§321- **Prevention of blindness at childbirth.** The department of health may require the administration of prophylaxis for the prevention of blindness in the newborn at childbirth.”

SECTION 2. New material is underscored.<sup>1</sup>

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

(Approved April 23, 1982.)

**Notes**

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Smoking in Public Places.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-201, Hawaii Revised Statutes, is amended to read:

“**[[§321-201]] Prohibition of smoking.** No person shall smoke or carry a lighted cigar, cigarette, pipe or match in any of the following places [owned and] operated by the State:



- (1) Enclosed meetings or conference rooms where persons gather;
- (2) Elevators, regardless of capacity;
- (3) Enclosed auditoriums or sports arena; or
- (4) Enclosed community centers where persons gather for meetings, parties or any other purposes.”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3.<sup>1</sup> This Act shall take effect upon its approval.

(Approved April 23, 1982.)

Notes

- 1. “3” added to correct obvious omission.

ACT 19

H.B. NO. 2172-82

A Bill for an Act Relating to Solid Waste Disposal.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 340A-2, Hawaii Revised Statutes, is amended to read:

“~~[[~~§340A-2~~]]~~ **Ownership of solid waste.** Unless otherwise provided by [any] county ordinance [,] or federal regulation, the owner of solid waste shall be:

- (1) The generator of the solid waste until the solid waste is collected;
- (2) The collector until the solid waste is deposited with an operator;
- (3) In the absence of a collector, the generator of the solid waste until the solid waste is deposited with an operator; or
- (4) The operator upon acceptance of the solid waste.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 23, 1982.)

ACT 20

H.B. NO. 2173-82

A Bill for an Act Relating to Employment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-30, Hawaii Revised Statutes, is amended to read:

“**§383-30 Disqualification for benefits.** An individual shall be disqualified for benefits:

- (1) Voluntary separation. For any week in which he has left his work voluntarily without good cause, and continuing until he has, subsequent to the week in which the voluntary separation occurred, been employed for at least five consecutive weeks of employment. For the purposes of this [subsection] paragraph, “weeks of employment” means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or

more employers, whether or not such employers are subject to this chapter.

- (2) Discharge or suspension for misconduct. For the week in which he has been discharged for misconduct connected with his work, and continuing until he has, subsequent to the week in which the discharge occurred, been employed for at least five consecutive weeks of employment. For the week in which he has been suspended for misconduct connected with his work and for not less than one or more than four consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct. For the purposes of this paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
- (3) Failure to apply for work, etc. For the week in which he failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered him and continuing until he has, subsequent to the week in which the failure occurred, been employed for at least five consecutive weeks of employment. For the purposes of this [subsection] paragraph, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
  - (A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3)(B) of this section, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under paragraph (1) of this section.
  - (B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
    - (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
    - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
    - (iii) If as a condition of being employed the individual would be

required to join a company union or to resign from or refrain from joining any bona fide labor organization.

- (4) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed; provided that this paragraph shall not apply if it is shown that:
  - (A) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
  - (B) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this [subsection] paragraph, be deemed to be a separate factory, establishment or other premises.
- (5) If the department finds that he has within the twenty-four calendar months immediately preceding any week of his unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, he shall be disqualified for benefits beginning with the week in which the department makes the determination and for each consecutive week during the current and subsequent twenty-four calendar months immediately following such determination, and such individual shall not be entitled to any benefit under this chapter for the duration of such period; provided, that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141.
- (6) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, [except the agricultural unemployment compensation law, chapter 384,] but this paragraph shall not apply (A) if the appropriate agency finally determines that he is not entitled to benefits under such other law, or (B) if benefits are payable to him under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.
- (7) Deleted."

SECTION 2. Section 383-77, Hawaii Revised Statutes, is amended to read:

"§383-77 **Employers' coverage, election.** Any employing unit, for which services that do not constitute employment as defined in this chapter are performed, may file with the department of labor and industrial relations a written election that all such services performed with respect to which payments are not

required under an employment security law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business, shall be deemed to constitute employment by an employer for all of the purposes of this chapter for not less than two calendar years.

Upon the written approval of the election by the department, the services shall be deemed to constitute employment subject to this chapter from the first day of the calendar quarter in which the approval is granted. The services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January the employing unit has filed with the department a written notice to that effect.

[In addition to the election permitted under the preceding paragraph, any employing unit, for which services constituting employment as defined in the agricultural unemployment compensation law, chapter 384, are performed, or will be performed subsequent to its effective date, may at any time before or after its effective date, file with the department a written election setting forth the date on and after which the employing unit desires that all such services shall be deemed to constitute employment by it for all purposes of this chapter, provided that the designated date is January 1 or July 1 of a calendar year. The written election under this paragraph shall not be revocable after it has been filed with the department. From and after the date designated in the written election by the employing unit as the date on and after which the employing unit desires that the services constituting employment as defined in the agricultural unemployment compensation law shall be deemed to constitute employment subject to this chapter, such services shall constitute employment by it for all purposes of this chapter. Between the date that the written election is filed with the department and the date that the employing unit desires that the services constitute employment for all of the purposes of this chapter, the employing unit may make voluntary contributions in such amounts and at such times as the employing unit may determine to do so in anticipation of its ultimate obligations for contributions under this chapter with respect to such employment. If an employing unit has a liability for unpaid contributions or unpaid benefits under the agricultural unemployment compensation law, this paragraph shall not be availed of by the employing unit unless the department is satisfied of such employing unit's solvency and financial ability to discharge such liability.]

SECTION 3. Section 383-78, Hawaii Revised Statutes, is repealed.

SECTION 4. Chapter 384, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 385-2, Hawaii Revised Statutes, is amended to read: "**§385-2 Definitions, generally.** As used in this chapter, unless the context clearly requires otherwise:

- (1) "Director" means the director of labor and industrial relations of the State.
- (2) "Fund" means the additional unemployment compensation fund established by this chapter.
- (3) "Unemployment". An individual shall be deemed "unemployed" in any

week during which he performs no services and with respect to which no wages are receivable by him, or in any week of less than full-time work if the wages receivable by him with respect to such week are less than his weekly benefit amount payable under this chapter.

- (4) "Additional unemployment benefits" means the unemployment compensation benefits payable under this chapter.
- (5) "Normal benefits" means the unemployment compensation benefits payable pursuant to [chapters] chapter 383 [or<sup>1</sup> 384].
- (6) "Claimant" means an individual:
  - (A) Who has an unexpired benefit year and has exhausted his normal benefits; or
  - (B) Whose benefit year expired, or whose normal benefits were exhausted, within a period of twenty-six consecutive weeks immediately preceding the week in which the proclamation provided for in section 385-1 became effective; or
  - (C) Who was employed during the week in which the governor's proclamation pursuant to section 385-1 became effective, but who became unemployed and whose total earned wages are insufficient to entitle him to normal benefits; or
  - (D) Whose unemployment was proximately caused by the disaster identified by the governor in the proclamation provided for in section 385-1 and was self-employed during the week in which the disaster occurred.
- (7) "Wages" means all remuneration for services from whatever source, including commissions and bonuses, and remuneration from self-employment, and the cash value of all remuneration in any medium other than cash, but not including tips or gratuities paid directly to an individual by a customer of his employer and not accounted for by the individual to his employer. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director. For the purposes of this chapter "wages" does not include the amount of payment or remuneration set forth in section 383-11.
- (8) "Week" means any period of seven consecutive days as the director may by regulation prescribe.
- (9) "Benefit year" refers to "benefit year" as that term is defined in section 383-1(3)."

SECTION 6. Section 385-6, Hawaii Revised Statutes, is amended to read:

"**§385-6 Requirements for eligibility.** An unemployed claimant is eligible to receive additional unemployment benefits with respect to any week only if the director of labor and industrial relations finds that:

- (1) He has made a claim for additional unemployment benefits with respect to such week in accordance with the regulations as the director may prescribe with respect to claims for normal benefits;
- (2) He meets the eligibility requirements of paragraphs (2) and (3) of section 383-29 [, or chapter 384];

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- (3) He is not subject to disqualification and is not under disqualification for normal benefits under section 383-30;
- (4) He is not entitled to receive unemployment compensation benefits under any state or federal unemployment compensation laws for the week in which he claims for additional unemployment benefits [.]
- (5) He is not entitled to receive disaster benefits under any state or federal law for the week in which he claims additional unemployment benefits.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.<sup>2</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved April 23, 1982.)

### Notes

1. Prior to amendment, “and” appeared instead of “or”.
2. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 21

H.B. NO. 2191-82

A Bill for an Act Relating to Solicitation of Funds from the Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467B-2, Hawaii Revised Statutes, is amended to read:  
“**§467B-2 Registration of charitable organizations.** (a) Every charitable organization, except as otherwise provided in this chapter, which intends to solicit contributions within the State, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the director upon forms prescribed by the director, which shall be valid for one full year and which shall be refiled in the next and each following year in which the charitable organization is engaged in solicitation activities. It shall be the duty of the president, chairman, or principal officer of the charitable organization to file the statement required under this chapter. The statement shall be sworn to and shall contain the following information:

- (1) The name of the charitable organization and the purpose for which it was organized.
- (2) The principal address of the charitable organization and the addresses of any office in the State. If the charitable organization does not maintain an office, the name and address of the person having custody of its financial records.
- (3) The name and address of any chapter, branch, or affiliate in the State.
- (4) The date and place when the charitable organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code.
- (5) The name and address of all officers, directors, trustees, and the principal salaried executive staff officer.

- (6) A copy of a financial statement (balance sheet and income and expense statement) audited by an independent certified public accountant covering, in a consolidated report, complete information as to all the preceding fiscal year's fund-raising activities of the charitable organization, showing the kind and amount of funds raised, costs and expenses incidental thereto, and allocation or disbursement of funds raised whenever the organization raised or received contributions exceeding \$10,000 during the preceding fiscal year; or a copy of an unaudited financial statement (either a compilation or review) covering all the preceding fiscal year's fund-raising activities of the charitable organization, showing the kind and amount of funds raised, costs and expenses incidental thereto, and allocation or disbursement of funds raised whenever the charitable organization raised or received contributions in excess of \$4,000 but not exceeding \$10,000, during the preceding fiscal year. The statement shall include the salary or other compensation paid to a professional solicitor or professional fund-raising counsel whether expressed in a fixed dollar amount or as a per cent of the total moneys, funds, pledges, or other property raised or received.
  - (7) Whether the charitable organization intends to solicit contributions from the public directly or have the solicitation done on its behalf by others.
  - (8) Whether the charitable organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.
  - (9) The general purpose for which the contributions to be solicited shall be used.
  - (10) The name under which it intends to solicit contributions.
  - (11) The name of the individual or officer of the charitable organization who will have final responsibility for the custody of the contributions.
  - (12) The name of the individual or officer of the charitable organization responsible for the final distribution of the contributions.
- (b) Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, may separately report the information required by this section, or report the information to its parent organization which shall furnish the information as to its state affiliates, chapters and branches in a consolidated form to the department.
- (c) The registration forms and other documents prescribed by the director shall be signed by an authorized officer and by the chief fiscal officer of the charitable organization and shall be verified by oath.
- (d) Every charitable organization which submits an independent registration to the department shall pay an annual registration fee of \$10. A parent organization filing on behalf of one or more chapters, branches or affiliates and a federated fund-raising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and the chapters, branches, affiliates or member agencies included in the registration statement.
- (e) In lieu of the filing of the audited financial statement, any charitable

organization required to file the Internal Revenue Service Form 990 or its successor form may substitute such form for purposes of this section.”

SECTION 2. New material is underscored.

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

(Approved April 23, 1982.)

ACT 22

H.B. NO. 2203-82

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (h) of section 235-2.3 to read:

“(h) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount [on individuals] as determined under section 235-51[(a)] (e).”

2. By amending section 235-51 to read:

“§235-51 [Tax on individuals; rate. (a) There shall be assessed, levied, collected, and paid, for each taxable year on the taxable income of every individual, a tax in the following amounts:

If the taxable income is:	The tax is:
Not over \$500	2.25% of taxable income
Over \$500, but not over \$1,000	\$11.25 plus 3.25% of excess over \$500
Over \$1,000, but not over \$1,500	\$27.50 plus 4.5% of excess over \$1,000
Over \$1,500, but not over \$2,000	\$50.00 plus 5% of excess over \$1,500
Over \$2,000, but not over \$3,000	\$75.00 plus 6.5% of excess over \$2,000
Over \$3,000, but not over \$5,000	\$140.00 plus 7.5% of excess over \$3,000
Over \$5,000, but not over \$10,000	\$290.00 plus 8.5% of excess over \$5,000
Over \$10,000, but not over \$14,000	\$715.00 plus 9.5% of excess over \$10,000
Over \$14,000, but not over \$20,000	\$1,095.00 plus 10% of excess over \$14,000
Over \$20,000, but not over \$30,000	\$1,695.00 plus 10.5% of excess over \$20,000
Over \$30,000	\$2,745.00 plus 11% of excess over \$30,000

(b) Tax on head of household; rate. There shall be assessed, levied, collected,



and paid, for each taxable year on the taxable income of every individual who is a head of household, a tax in the following amounts:

If the taxable income is:	The tax shall be:
Not over \$500	2.25% of taxable income
Over \$500, but not over \$1,000	\$11.25 plus 2.75% of excess over \$500
Over \$1,000, but not over \$1,500	\$25.00 plus 3.9% of excess over \$1,000
Over \$1,500, but not over \$2,000	\$44.50 plus 4.1% of excess over \$1,500
Over \$2,000, but not over \$3,000	\$65.00 plus 5.5% of excess over \$2,000
Over \$3,000, but not over \$5,000	\$120.00 plus 6.6% of excess over \$3,000
Over \$5,000, but not over \$10,000	\$252.00 plus 7.9% of excess over \$5,000
Over \$10,000, but not over \$20,000	\$647.00 plus 9.15% of excess over \$10,000
Over \$20,000, but not over \$30,000	\$1,562.00 plus 10.05% of excess over \$20,000
Over \$30,000, but not over \$40,000	\$2,567.00 plus 10.5% of excess over \$30,000
Over \$40,000 but not over \$60,000	\$3,617.00 plus 10.75% of excess over \$40,000
Over \$60,000	\$5,757.00 plus 11% of excess over \$60,000

(c) Tax imposed on individuals; rates. (a) There is hereby imposed on the taxable income of (1) every taxpayer who files a joint return under section 235-93; and (2) every surviving spouse a tax determined in accordance with the following table:

<u>If taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$1,000</u>	<u>No Tax</u>
<u>Over \$1,000, but not over \$2,000</u>	<u>2.25% of excess over \$1,000</u>
<u>Over \$2,000, but not over \$3,000</u>	<u>\$22.50 plus 3.25% of excess over \$2,000</u>
<u>Over \$3,000, but not over \$4,000</u>	<u>\$55.00 plus 4.5% of excess over \$3,000</u>
<u>Over \$4,000, but not over \$5,000</u>	<u>\$100.00 plus 5.0% of excess over \$4,000</u>
<u>Over \$5,000, but not over \$7,000</u>	<u>\$150.00 plus 6.5% of excess over \$5,000</u>
<u>Over \$7,000, but not over \$11,000</u>	<u>\$280.00 plus 7.5% of excess over \$7,000</u>
<u>Over \$11,000, but not over \$21,000</u>	<u>\$580.00 plus 8.5% of excess over \$11,000</u>
<u>Over \$21,000, but not over \$29,000</u>	<u>\$1,430.00 plus 9.5% of excess over \$21,000</u>
<u>Over \$29,000, but not over \$41,000</u>	<u>\$2,190.00 plus 10.0% of excess over \$29,000</u>
<u>Over \$41,000, but not over \$61,000</u>	<u>\$3,390.00 plus 10.5% of excess over \$41,000</u>
<u>Over \$61,000</u>	<u>\$5,490.00 plus 11.0% of excess over \$61,000</u>

(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

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If taxable income is:

<u>Not over \$800</u>
<u>Over \$800, but not over \$1,300</u>
<u>Over \$1,300, but not over \$1,800</u>
<u>Over \$1,800, but not over \$2,300</u>
<u>Over \$2,300, but not over \$2,800</u>
<u>Over \$2,800, but not over \$3,800</u>
<u>Over \$3,800, but not over \$5,800</u>
<u>Over \$5,800, but not over \$10,800</u>
<u>Over \$10,800, but not over \$20,800</u>
<u>Over \$20,800, but not over \$30,800</u>
<u>Over \$30,800, but not over \$40,800</u>
<u>Over \$40,800, but not over \$60,800</u>
<u>Over \$60,800</u>

The tax is:

<u>No Tax</u>
<u>2.25% of excess over \$800</u>
<u>\$11.25 plus 2.75% of excess over \$1,300</u>
<u>\$25.00 plus 3.9% of excess over \$1,800</u>
<u>\$44.50 plus 4.1% of excess over \$2,300</u>
<u>\$65.00 plus 5.5% of excess over \$2,800</u>
<u>\$120.00 plus 6.6% of excess over \$3,800</u>
<u>\$252.00 plus 7.9% of excess over \$5,800</u>
<u>\$647.00 plus 9.15% of excess over</u>
<u>\$10,800</u>
<u>\$1,562.00 plus 10.05% of excess over</u>
<u>\$20,800</u>
<u>\$2,567.00 plus 10.5% of excess over</u>
<u>\$30,800</u>
<u>\$3,617.00 plus 10.75% of excess over</u>
<u>\$40,800</u>
<u>\$5,767.00 plus 11.0% of excess over</u>
<u>\$60,800</u>

(c) There is hereby imposed on the taxable income of every unmarried individual (other than a surviving spouse, or the head of a household) a tax determined in accordance with the following table:

If taxable income is:

<u>Not over \$800</u>
<u>Over \$800, but not over \$1,300</u>
<u>Over \$1,300, but not over \$1,800</u>
<u>Over \$1,800, but not over \$2,300</u>
<u>Over \$2,300, but not over \$2,800</u>
<u>Over \$2,800, but not over \$3,800</u>
<u>Over \$3,800, but not over \$5,800</u>
<u>Over \$5,800, but not over \$10,800</u>
<u>Over \$10,800, but not over \$14,800</u>
<u>Over \$14,800, but not over \$20,800</u>
<u>Over \$20,800, but not over \$30,800</u>
<u>Over \$30,800</u>

The tax is:

<u>No Tax</u>
<u>2.25% of excess over \$800</u>
<u>\$11.25 plus 3.25% of excess over \$1,300</u>
<u>\$27.50 plus 4.5% of excess over \$1,800</u>
<u>\$50.00 plus 5.0% of excess over \$2,300</u>
<u>\$75.00 plus 6.5% of excess over \$2,800</u>
<u>\$140.00 plus 7.5% of excess over \$3,800</u>
<u>\$290.00 plus 8.5% of excess over \$5,800</u>
<u>\$715.00 plus 9.5% of excess over</u>
<u>\$10,800</u>
<u>\$1,095.00 plus 10.0% excess over</u>
<u>\$14,800<sup>1</sup></u>
<u>\$1,695.00 plus 10.5% of excess over</u>
<u>\$20,800</u>
<u>\$2,745.00 plus 11.0% of excess over</u>
<u>\$30,800</u>

(d) There is hereby imposed on the taxable income of every married individual who does not make a single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

<u>If taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$500</u>	<u>No Tax</u>
<u>Over \$500, but not over \$1,000</u>	<u>2.25% of excess over \$500</u>
<u>Over \$1,000, but not over \$1,500</u>	<u>\$11.25 plus 3.25% of excess over \$1,000</u>
<u>Over \$1,500, but not over \$2,000</u>	<u>\$27.50 plus 4.5% of excess over \$1,500</u>
<u>Over \$2,000, but not over \$2,500</u>	<u>\$50.00 plus 5.0% of excess over \$2,000</u>
<u>Over \$2,500, but not over \$3,500</u>	<u>\$75.00 plus 6.5% of excess over \$2,500</u>
<u>Over \$3,500, but not over \$5,500</u>	<u>\$140.00 plus 7.5% of excess over \$3,500</u>
<u>Over \$5,500, but not over \$10,500</u>	<u>\$290.00 plus 8.5% of excess over \$5,500</u>
<u>Over \$10,500, but not over \$14,500</u>	<u>\$715.00 plus 9.5% of excess over \$10,500</u>
<u>Over \$14,500, but not over \$20,500</u>	<u>\$1,095.00 plus 10.0% of excess over \$14,500</u>
<u>Over \$20,500, but not over \$30,500</u>	<u>\$1,695.00 plus 10.5% of excess over \$20,500</u>
<u>Over \$30,500</u>	<u>\$2,745.00 plus 11.0% of excess over \$30,500</u>

(e) The tax imposed by section 235-2.3(h) on estates and trusts shall be determined in accordance with the following table:

<u>If taxable income is:</u>	<u>The tax is:</u>
<u>Not over \$500</u>	<u>2.25% of taxable income</u>
<u>Over \$500, but not over \$1,000</u>	<u>\$11.25 plus 3.25% of excess over \$500</u>
<u>Over \$1,000, but not over \$1,500</u>	<u>\$27.50 plus 4.5% of excess over \$1,000</u>
<u>Over \$1,500, but not over \$2,000</u>	<u>\$50.00 plus 5% of excess over \$1,500</u>
<u>Over \$2,000, but not over \$3,000</u>	<u>\$75.00 plus 6.5% of excess over \$2,000</u>
<u>Over \$3,000, but not over \$5,000</u>	<u>\$140.00 plus 7.5% of excess over \$3,000</u>
<u>Over \$5,000, but not over \$10,000</u>	<u>\$290.00 plus 8.5% of excess over \$5,000</u>
<u>Over \$10,000, but not over \$14,000</u>	<u>\$715.00 plus 9.5% of excess over \$10,000</u>
<u>Over \$14,000, but not over \$20,000</u>	<u>\$1,095.00 plus 10% of excess over \$14,000</u>
<u>Over \$20,000, but not over \$30,000</u>	<u>\$1,695.00 plus 10.5% of excess over \$20,000</u>
<u>Over \$30,000</u>	<u>\$2,745.00 plus 11% of excess over \$30,000</u>

(f) Any taxpayer, other than a corporation, acting as a business entity in more than one state who is required by this chapter to file a return [and whose] may elect to report and pay a tax of .5 per cent of its annual gross sales (1) where the taxpayer's only activities in this State consist of sales; and (2) who does not own or rent real estate or tangible personal property; and (3) whose annual gross sales in or into this State during the tax year is not in excess of \$100,000 [may elect to report and pay a tax of .5 per cent of such annual gross sales]."

3. By amending section 235-52 to read:

**“§235-52 Tax in case of joint return or return of surviving spouse.** In the case of a joint return of a husband and wife under section 235-93, the tax imposed, as near as may be, by [section 235-51] this chapter shall be twice the tax which would be imposed if the taxable income were cut in half[.] subject to the inclusion of zero-bracket amounts. For purposes of this section and section 235-53, a return of a surviving spouse, as defined in the Internal Revenue Code, shall be treated as a joint return of a husband and wife under section 235-93.”

4. By amending section 235-93 to read:

**“§235-93 Joint returns.** A husband and wife, having that status for purposes of the Internal Revenue Code and entitled to make a joint federal return for the taxable year, may make a single return jointly of taxes under this chapter for the taxable year. In that case the tax shall be computed on [the] their aggregate income as provided in section 235-52, and the liability with respect to the tax shall be joint and several. For purposes for this chapter “aggregate income” means the income of both spouses without regard to source in the State.

If an individual has filed a separate return for a taxable year for which a joint return could have been made by [him] the taxpayer and [his] the taxpayer’s spouse, an election thereafter to make a joint return for the taxable year shall be made only upon compliance with [regulations] rules of the department of taxation, which may limit the election and prescribe the terms and provisions applicable in such cases as nearly as may be in conformity with the Internal Revenue Code.”

SECTION 2. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 235-2.3, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1981.

(Approved April 23, 1982.)

Note

1. So in original.

ACT 23

H.B. NO. 2204-82

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-61, Hawaii Revised Statutes, is amended to read:

**“§235-61 Withholding of tax on wages.** (a) As used in this section:

- (1) “Wages” means wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income

by section 235-7(b), but excluding income excluded from gross income by section 235-7 or other provisions of this chapter;

- (2) "Employee" includes an officer or elected official<sup>1</sup> or any other employee;
- (3) "Employer" means (A) the person or government for whom an individual performs or performed any service, of whatever nature, as the employee of such person or government, and (B) the person having control of the payment of the wages if the "employer" as heretofore defined does not have control thereof, and (C) any person subject to the jurisdiction of the State and paying wages on behalf of an "employer" as heretofore defined if the employer is not subject to the jurisdiction of the State; provided that the term "employer" shall not include any government that is not subject to the laws of the State except as, and to the extent that, it consents to the application of sections 235-61 to 235-67 to it.

(b) Every employer, as defined herein, making payment of wages, as herein defined, to employees, shall deduct and withhold from such wages an amount of tax determined as provided in this section.

(c) For each withholding period (whether weekly, bi-weekly, monthly, or otherwise) the amount of tax to be withheld under this section shall be at a rate which, for the taxable year, will yield the tax imposed by section 235-51 upon each employee's annual wage, as estimated from his current wage in any withholding period, but (for the purposes of this subsection) of the rates provided by section 235-51 the maximum to be taken into consideration shall be eight per cent. The tax for the taxable year shall be calculated upon the following assumptions:

- (1) That the employee's annual wage, as estimated from his current wage in the withholding period, will be his sole income for the taxable year;
- (2) That there will be no deductions therefrom in determining adjusted gross income;
- (3) That in determining taxable income there will be deductions in the amount of [ten per cent of the estimated annual wage;] \$1,000 (\$800 in the case of an individual who is not married and who is not a surviving spouse);
- (4) That in determining taxable income there also will be deducted the amount of exemptions and withholding allowances granted to the employee in the computation of taxable income, as shown by a certificate to be filed with the employer as provided by subsection (f); and
- (5) If it appears from the certificate filed pursuant to subsection (f) that the employee is, under section 235-93, entitled to make a joint return, that he and his spouse will so elect.

(d) Alternatively, at the election of the employer, he may deduct and withhold from each employee an amount of tax determined on the basis of tables to be prepared and furnished by the department of taxation, which amount of tax shall be substantially equivalent to the amount of tax provided by subsection (c) hereof.

(e) The department, by regulation, may require the deduction and withholding of tax from any remuneration or compensation paid for or attributable to services that are not subject to the general excise tax imposed by chapter 237,

whether or not such withholding is provided for hereinabove. Every person so required to deduct and withhold tax, or from whom tax is required to be deducted and withheld, shall be subject to sections 235-61 to 235-67, and every person so required to deduct and withhold tax shall be deemed an employer for the purposes of this chapter.

The department, by regulation, may exempt any employer from the requirement of deduction and withholding of taxes, even though such requirement is imposed by this section, if and to the extent that the department finds such requirement unduly onerous or impracticable of enforcement.

(f) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed certificate relating to the amount of exemptions which he claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts, and also showing whether he is married and is, under section 235-93, entitled to make a joint return. The certificate shall be in such form and contain such information as may be prescribed by the department.

If, on any day during the calendar year, there is a change in the employee's marital status and he no longer is entitled to make a joint return, or the amount of exemptions to which the employee is entitled is less than the amount of exemptions claimed by the employee on the certificate then in effect with respect to him, the employee shall within ten days thereafter furnish the employer with a new certificate showing his present marital status, or relating to the amount of exemptions which the employee then claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts. If, on any day during the calendar year, there is a change in the employee's marital status and though previously not entitled to make a joint return he now is so entitled, or the amount of exemptions to which he is entitled is greater than the amount of exemptions claimed, the employee may furnish the employer with a new certificate showing his present marital status, or relating to the amount of exemptions which the employee then claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts.

Such certificate shall take effect at the times set forth in the Internal Revenue Code.

(g) In determining the deduction allowed by subsection (c)(4) an employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages equal to the number determined by dividing by \$1,000 the excess of the employee's estimated itemized deductions over an amount equal to [ten per cent of the employee's estimated wages.] \$1,000 (\$800 in the case of an individual who is not married and who is not a surviving spouse). For the purposes of this subsection a fractional number shall not be taken into account[.] unless it amounts to one-half or more, in which case it shall be increased to the next whole number.

(1) As used in this subsection, unless the context otherwise requires:

(A) "Estimated itemized deductions" means the aggregate amount which the employee reasonably expects will be allowed as deductions under sections 235-2.3 and 235-7, other than the deductions referred to in Internal Revenue Code section 151 and those deductions required to be taken into account in determining

adjusted gross income under Internal Revenue Code section 62 (with the exception of paragraph 13 thereof) for the estimation year. In no case shall such aggregate amount be greater than the sum of:

- (i) The amount of such deductions (or the zero bracket amount (within the meaning of section [235-2.3])) 235-2.3(c)) reflected in the employee's net income tax return for the taxable year preceding the estimation year or (if such a return has not been filed for such preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year, [or] and
  - (ii) The [ten per cent standard deduction reflected in the employee's net income tax return for the taxable year preceding the estimation year or (if such a return has not been filed for such preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year, and the] amount of the employee's determinable additional deductions for the estimation year.
- (B) "Estimated wages" means the aggregate amount which the employee reasonably expects will constitute wages for the estimation year.
- (C) "Determinable additional deductions" means those estimated itemized deductions which:
- (i) Are in excess of the deductions referred to in subparagraph (A) (or the zero bracket amount) reflected on the employee's net income tax return for the taxable year preceding the estimation year; and
  - (ii) Are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to cause an increase in the amount of such deductions on the net income tax return for the estimation year.
- (D) "Estimation year", in the case of an employee who files the employee's return on the basis of a calendar year, means the calendar year in which the wages are paid; provided that in the case of an employee who files the employee's return on a basis other than the calendar year, the employee's estimation year, and the amounts deducted and withheld to be governed by such estimation year, shall be determined under rules prescribed by the director of taxation.
- (2) Under this subsection, the following special rules shall apply:
- (A) Married individuals. The number of withholding allowances to which a husband and wife are entitled under this subsection shall be determined on the basis of their combined wages and deductions. This subparagraph shall not apply to a husband and wife who filed separate returns for the taxable year preceding the estimation year and who reasonably expect to file separate returns for

the estimation year.

- (B) Limitation. In the case of employees whose estimated wages are at levels at which the amounts deducted and withheld under this chapter generally are insufficient (taking into account a reasonable allowance for deductions and exceptions) to offset the liability for tax under this chapter with respect to the wages from which such amounts are deducted and withheld, the director may by rule reduce the withholding allowances to which such employees would, but for this subparagraph, be entitled under this subsection.
- (C) Treatment of allowances. For purposes of this chapter, any withholding allowance under this subsection shall be treated as if it were denominated a withholding exemption.

(3) The director may prescribe tables by rule under chapter 91 pursuant to which employees shall determine the number of withholding allowances to which they are entitled under this subsection.

(h) Any individual required to supply information to his employer under this section who wilfully supplies false or fraudulent information, or who wilfully fails to supply information under this section which would require an increase in the tax to be withheld, shall be fined not more than \$500, or imprisoned not more than six months, or both.

(i) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle C, chapter 24 of the Internal Revenue Code operative in this section.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1981.

(Approved April 23, 1982.)

**Notes**

- 1. Prior to amendment, a “,” appeared.

A Bill for an Act Relating to Boards and Commissions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 78-4, Hawaii Revised Statutes, is amended to read as follows:

**“§78-4 Boards and commissions, service limited.** (a) Any other provision of the law to the contrary notwithstanding, no person shall be allowed to serve on more than one board or commission of a public character, created by the State or any of its political subdivisions.



(b) Any other provision of the law to the contrary notwithstanding, no nomination or appointment to a state or county board or commission, whether temporary or permanent and which requires part-time service, shall be denied to a person of or over the age of majority due to that person's age; provided that this subsection shall not apply when a law relating to a particular board or commission requires a member or members thereof to be of a specified age or age groups.

(c) This section shall not apply when in conflict with any federal law."

SECTION 2. New statutory material is underscored.

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

(Approved April 23, 1982.)

## ACT 25

H.B. NO. 2247-82

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended to read:

**"§235-2.3 Conformance to the federal Internal Revenue Code.** (a) For all taxable years beginning after [December 31, 1980,] December 31, 1981, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of [December 31, 1980] December 31, 1981 as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter and this section do not apply or are otherwise limited in application.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(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 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (4) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection [(g)] (e) of this section and sections 235-7(a)(10) to (12) and 235-9(a)(2) and (5).
- (5) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).

- (6) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
  - (7) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
  - (8) Section 221 (with respect to deduction for two-earner married couples).
  - [(8)](9) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
  - [(9)](10) Section 280C (with respect to portion of wages for which credit is claimed under section 40 or 44B).
  - [(10)](11) Section 367 (with respect to foreign corporations).
  - [(11) Section 457 (with respect to deferred compensation plans with respect to service for state and local governments).]
  - (12) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection [(g)] (e) of this section. For treatment, see section 235-9.
  - (13) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
  - (14) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
  - (15) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
  - (16) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
  - (17) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
  - (18) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
  - (19) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
  - (20) Section 1055 (with respect to redeemable ground rents).
  - (21) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
  - (22) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
  - (23) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).
  - (24) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.
- (c) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the zero-bracket amount in section 63(d) of the Internal Revenue Code shall instead mean:

- (1) \$1,000 in the case of:
  - (A) A joint return as provided by section 235-93, or
  - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code),
- (2) \$800 in the case of an individual who is not married and who is not a surviving spouse (as so defined),
- (3) \$500 in the case of a married individual filing a separate return, or
- (4) Zero in any other case.

[(d) Section 116 (with respect to partial exclusion of dividends and interest received by individuals) of the Internal Revenue Code shall be operative for the purposes of this chapter. Public Law 96-223, section 404(c) (with respect to limiting the operation of section 116 to taxable years beginning after December 31, 1980, and before January 1, 1983), shall be operative for the purposes of this chapter.

(e) Section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code shall be operative for the purposes of this chapter; except the amendments to section 403 by Public Law 87-370, section 3 (with respect to employees of certain educational organizations) shall not be operative.]

[(f)] (d) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) and sections 418 to 418E (with respect to special rules for multiemployer plans) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 418E.

In administering sections 401 to 418E (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

[(g)] (e) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection [(h)(2)] (f)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan.

[(h)] (f) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount on individuals as determined under section 235-51(a).

[(i)] (g) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

[(j)] (h) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

[(k)] (i) Sections 991 to 997 (with respect to domestic international sales corporations) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that any corporation electing to be [an] a domestic international sales corporation under this chapter shall be incorporated and have its principal place of business in this State.

[(l)] (j) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter; provided section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

- (1) A taxpayer who purchases a replacement residence which is located within the State, or
- (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

[(m)] (k) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

[(n)] (l) Subchapter S (sections 1371 to 1379) (with respect to the election of certain small business corporations as to taxable status) of chapter 1 of the Internal

Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term small business corporation as defined in section 1371 of the Internal Revenue Code means a corporation which does not have:
  - (A) A nonresident as a shareholder; or
  - (B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includible in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years.
- (3) An election under section 1372 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.
- (4) The tax imposed by section 1378(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1378(c)(3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section 1378(c)(3)(B) of the Internal Revenue Code and having a basis described in section 1378(c)(3)(C) of the Internal Revenue Code.

[(o)] (m) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that references to time limits and other administrative provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code contained in operative sections of subtitle A, chapter 1, of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation

under subsection [(p.)] (n). If inoperative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

Retroactive provisions in federal Public Laws amending sections of the federal Internal Revenue Code operative in this chapter affecting taxable years beginning or ending before the December 31 date in subsection (a) shall be operative for the purposes of this chapter; provided that the effective dates in Public Law 96-471 placing it in effect for the taxable year 1980 shall be operative for the purposes of this chapter.

[(p)] (n) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle A, chapter 1 or 6, of the Internal Revenue Code operative in this chapter and any administrative provisions of the Internal Revenue Code (subtitle F, sections 6001 to 7852) not in conflict with or similar to provisions contained in this chapter or chapter 231 or 232 either by reference or by setting them forth in full.

[(q)] (o) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation.”

SECTION 2. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

“(d) (1) For taxable years ending before January 1, 1967, the net operating loss deductions allowed as carry-backs and carry-overs by the Internal Revenue Code shall not be allowed. In lieu thereof the net operating loss deduction shall consist of the excess of the deductions allowed by this chapter over the gross income, computed with the modifications

specified in paragraphs (1) to (4) of section 172(d) of the Internal Revenue Code, and with the further modification stated in paragraph (3) hereof; and shall be allowed as a deduction in computing the taxable income of the taxpayer for the succeeding taxable year.

- (2) (A) With respect to net operating loss deductions resulting from net operating losses for taxable years ending after December 31, 1966, the net operating loss deduction provisions of the Internal Revenue Code shall apply, provided that there shall be no net operating loss deduction carried back to any taxable year ending prior to January 1, 1967.
- (B) In the case of a taxable year beginning in 1966 and ending in 1967, the entire amount of all net operating loss deductions carried back to the taxable year shall be limited to that portion of taxable income for such taxable year which the number of days in 1967 bears to the total days in the taxable year ending in 1967.
- (C) The computation of any net operating loss deduction for a taxable year covered by this subsection shall require the further modifications stated in paragraphs (3), (4), and (5) of this subsection.
- (3) In computing the net operating loss deduction allowed by this subsection there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (e). In determining the amount of the net operating loss deduction under this subsection of any corporation, there shall be disregarded the net operating loss of such corporation for any taxable year for which the corporation is an electing small business corporation.
- (4) [A net operating loss carryback shall be limited to each of three taxable years preceding the taxable year of such loss. A net operating loss carryover shall be limited to each of the five taxable years following the taxable year of such loss.] No net operating loss carryback or carryover shall be allowed by this chapter if not allowed under section 172 of the Internal Revenue Code.
- (5) The election to relinquish the entire carryback period with respect to a net operating loss allowed under section 172(b)(3)(C) of the Internal Revenue Code shall be operative for the purposes of this chapter[, subject to the limitations set forth in paragraph (4) of this subsection]; provided that no taxpayer shall make such an election as to a net operating loss of a business where such net operating loss occurred in the taxpayer's business prior to the taxpayer entering business in this State."

SECTION 3. Section 235-55.6, Hawaii Revised Statutes, is amended in the following respects:

1. By amending subsection (a) to read:

“(a) Allowance of credit.

(1) In general. For each resident taxpayer, who files an individual income

tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to [ten per cent] the applicable percentage of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

- (2) Applicable percentage defined. For purposes of paragraph (1), the term "applicable percentage" means fifteen per cent reduced (but not below ten per cent) by one percentage point for each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$10,000.

2. By amending subsection (c) to read:

"(c) Definitions of qualifying individual and employment-related expenses.

For purposes of this section:

- (1) Qualifying individual. The term "qualifying individual" means:
- (A) A dependent of the taxpayer who is under the age of fifteen and with respect to whom the taxpayer is entitled to a deduction under section 235-54(a),
  - (B) A dependent of the taxpayer who is physically or mentally incapable of caring for himself, or
  - (C) The spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.
- (2) Employment-related expenses.
- (A) In general. The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:
    - (i) Expenses for household services, and
    - (ii) Expenses for the care of a qualifying individual.
  - (B) Exception. Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of [a]
    - (i) A qualifying individual described in paragraph (1)(A)[.], or
    - (ii) A qualifying individual (not described in paragraph (1)(A)) who regularly spends at least eight hours each day in the taxpayer's household.
  - (C) Dependent care centers. Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if:
    - (i) Such center complies with all applicable laws, rules, and regulations of this State, and



(ii) The requirements of subparagraph (B) are met.

(D) Dependent care center defined. For purposes of this paragraph, the term "dependent care center" means any facility which:

(i) Provides care for more than six individuals (other than individuals who reside at the facility), and

(ii) Receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit)."

3. By amending subsection (d) to read:

"(d) Dollar limit on amount creditable. The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed:

- (1) [~~\$2,000~~] \$2,400 if there is one qualifying individual with respect to the taxpayer for such taxable year, or
- (2) [~~\$4,000~~] \$4,800 if there are two or more qualifying individuals with respect to the taxpayer for such taxable year."

4. By amending subsection (e) to read:

"(e) Earned income limitation.

(1) In general. Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed:

- (A) In the case of an individual who is not married at the close of such year, such individual's earned income for such year, or
- (B) In the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income or the income of his spouse for such year.

(2) Special rule for spouse who is a student or incapable of caring for himself. In the case of a spouse who is a student or a qualified individual described in subsection (c)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than:

- (A) [~~\$166~~] \$200 if subsection (d)(1) applies for the taxable year, or
- (B) [~~\$333~~] \$400 if subsection (d)(2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month."

SECTION 4. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 235-2.3, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1981, except as otherwise provided by Hawaii Revised

ACT 26

Statutes, section 235-2.3(o) redesignated (m) by section 1 of this Act.  
(Approved April 23, 1982.)

ACT 26

H.B. NO. 2334-82

A Bill for an Act Relating to Discriminatory Pricing in Supplying Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to make permanent the temporary regulations on price discrimination in supplying liquor under sections 281-121 through 281-124, Hawaii Revised Statutes.

SECTION 2. Act 280, Session Laws of Hawaii 1980, section 2 is amended to read:

“SECTION 2. This Act shall take effect upon its approval [and shall expire June 30, 1982].”

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 1982.)

ACT 27

H.B. NO. 2339-82

A Bill for an Act Relating to the Jurisdiction of the Hawaii Public Employment Relations Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-14, Hawaii Revised Statutes, is amended to read:

“§89-14<sup>1</sup> **Prevention of prohibited practices.** Any controversy concerning prohibited practices may be submitted to the board in the same manner and with the same effect as provided in section 377-9[.]; provided that the board shall have exclusive original jurisdiction over such a controversy except that nothing herein shall preclude (1) the institution of appropriate proceedings in circuit court pursuant to section 89-12(e) or (2) the judicial review of decisions or orders of the board in prohibited practice controversies in accordance with section 377-9 and chapter 91. All references in section 377-9 to “board” shall include the Hawaii public employment relations board and “labor organization” shall include employee organization.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 23, 1982.)

Notes

- 1. Prior to amendment, section number was bracketed.

## ACT 28

S.B. NO. 2376-82

A Bill for an Act Relating to Time Limitations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to delete reference to section 707-740, Hawaii Revised Statutes, in section 701-108(2), Hawaii Revised Statutes, as the former was repealed by Act 213, Session Laws of Hawaii 1981.

SECTION 2. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Except as otherwise provided in this section [and in section 707-740], prosecutions for other offenses are subject to the following periods of limitation:

- (a) A prosecution for a class A felony must be commenced within six years after it is committed;
- (b) A prosecution for any other felony must be commenced within three years after it is committed;
- (c) A prosecution for a misdemeanor or a parking violation must be commenced within two years after it is committed;
- (d) A prosecution for a petty misdemeanor or a violation other than a parking violation must be commenced within one year after it is committed.”

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 1982.)

## ACT 29

H.B. NO. 2405-82

A Bill for an Act Relating to Disclosure of Finance Costs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 477, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval, but shall not affect any rights that matured, penalties that were incurred, and proceedings that were begun prior to its effective date.

(Approved April 23, 1982.)

## ACT 30

H.B. NO. 2562-82

A Bill for an Act Relating to Deposits of Public Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 38-3, Hawaii Revised Statutes, is amended to read as follows:

“§38-3 **Securities for protection of funds deposited.** For the protection of funds deposited by the director under this chapter, the following securities shall be

deposited with the director, or with banks in the continental United States, or with financial institutions with trust powers authorized to do business in the State, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures, or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least equal in their par value to the amount of the deposit with the depository; or
- (2) Bonds, notes, debentures, or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues of the issuing agency, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (3) Bonds, notes, debentures, or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (4) Bonds, notes, bills, or certificates or indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (5) Bonds, notes, or debentures of agencies of the United States, in an amount at least equal to ninety-five per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository; or
- (7) Bonds, notes, debentures, or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of such state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (8) Bonds, notes, debentures, or other evidences of indebtedness of any city or of any county in the continental United States, for which the payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (9) Other safe bonds, notes, debentures, or other evidences of indebtedness as may be approved by the governor and the director, in an amount and value to the amount of the deposit with the depository as is determined

- by the director; or
- (10) Residential mortgage loans; provided that no more than five per cent of public deposits shall be secured with residential mortgage loans and that such security shall be accepted from depositories which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; provided further that the director shall require mortgage loans representing no less than \$200 of the unpaid principal for each \$100 of deposits.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept on deposit. The director may at any time require additional securities to be deposited under this section.

In the event that the depository shall fail to pay such deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no such securities shall be sold except at public auction, after giving at least ten days' notice by publication in some newspaper of general circulation in the State."

SECTION 2. New statutory material is underscored.

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

(Approved April 23, 1982.)

## ACT 31

H.B. NO. 2848-82

A Bill for an Act Relating to Sick Leave Exceptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 79-8, Hawaii Revised Statutes, is amended to read:

**"§79-8 Sick leaves; exceptions.** With the exception of teachers, educational officers, and cafeteria managers employed in the public schools of the State [and], the instructional staff of the University of Hawaii, and emergency appointees, all officers and employees in the service of the State or of the several counties shall be entitled to and granted cumulative sick leave pay at the rate of one and three-quarters working days for each month of service.

Sick leave allowances shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year. The sick leave provided for in this section, which is not used by an officer or employee during the year in which it accrues, shall accumulate and be available for use in succeeding years. Whenever it is deemed necessary, particularly when an abuse is indicated, a department head shall have the authority to investigate any absence for which sick leave, with pay, is indicated. Upon finding that the employee's claim of illness was falsely made, the department head shall take proper disciplinary action in accordance with the rules

## ACT 32

and regulations governing the matters. A licensed physician's certificate shall be required only when absences are five or more consecutive working days. Additional sick leave with pay, in excess of that which the officer or employee is entitled to, may be granted with the written approval of the governor or mayor, as the case may be, provided, that due consideration shall be given to the length of service of the particular employee requesting an excess of that to which he is entitled."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 23, 1982.)

## ACT 32

H.B. NO. 2935-82

A Bill for an Act Relating to Branch Banks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 403-53, Hawaii Revised Statutes, is amended to read as follows:

**"§403-53 Branch banks.** No bank or any officer or director, agent, or employee thereof, shall open or maintain any branch in the State or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the director of regulatory agencies may approve, except as hereinafter authorized; provided that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the State; and provided further that nothing in this section shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

Notwithstanding any other provision to the contrary, a bank or officer, director, agent or employee thereof, shall not be considered to have opened or to be maintaining a branch by reason of documentation of a purchase, loan, payment or contribution being made or obtained with a charge card or charge card account number or by reason of disbursement of cash or other proceeds.

Except as provided in section 403-56, no bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank more than five branch banks through 1981, six branch banks through 1983, seven branch banks through 1985, and no limit on the number of branch banks effective January 1, 1986, (whether designated as branch banks or collection offices) within each of the zones described.

Zone I: extending from the western side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II: extending from the eastern limits of Zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive and Dole Street extension to the boundary

between Manoa Valley and Palolo Valley, and thence along the boundary to the Koolau range;

Zone III: extending from the eastern limits of Zone II to the eastern limits of the district of Honolulu.

The branch banking limitations of this section shall not apply to the electronic funds transfer devices.

A bank or a service corporation of a bank holding company which provides electronic funds transfer terminals and services to its customers, at premises separate from its main office or duly authorized branch or facility, shall make such equipment or services available for use by customers of any other bank authorized to do business in this State upon the request of that other bank to share its use and the agreement of that other bank to share pro rata all costs incurred in connection with the installation and operation of such electronic funds transfer equipment and terminals. Such terminals shall identify with equal prominence all of the banking institutions which use the terminals.

The bank examiner shall adopt rules pursuant to chapter 91 governing the placement of electronic funds transfer devices.”

SECTION 2. New statutory material is underscored.

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

(Approved April 23, 1982.)

### ACT 33

H.B. NO. 3030-82

A Bill for an Act Relating to Dentistry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 448-14, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved April 23, 1982.)

#### Notes

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

### ACT 34

H.B. NO. 3142-82

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-206, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The adjusted household income of an eligible borrower shall not exceed one hundred [twenty five] fifty per cent of the median annual income for households of four persons in the State as most recently published by the United States

Department of Health [, Education and Welfare] and Human Services in November 1980, except that the adjusted household income of a family of one shall not exceed one hundred per cent of such median income. As used in this subsection, "adjusted household income" means the total income, before taxes and personal deductions, received by all members of the eligible borrower's household, including, but not limited to, wages, social security payments, retirement benefits, unemployment benefits, welfare benefits, interest and dividend payments, and such other income as provided by rules adopted by the authority under chapter 91, but not including business deductions."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 26, 1982.)

ACT 35

H.B. NO. 34

A Bill for an Act Relating to Gifted Children.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 301-21, Hawaii Revised Statutes, is amended by amending the definition of "exceptional children" to read:

"Exceptional children" includes:

- (1) Persons under twenty years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities[;], provided that "exceptional children" does not include "gifted and talented children" as defined in and covered by part III of this chapter;
- (2) Persons under twenty years of age who by reason of physical defects cannot attend the regular public school classes with normal children; and
- (3) Persons under twenty years of age who are certified by a licensed physician eligible to membership in the state medical society to be emotionally maladjusted or intellectually incapable of profiting from ordinary instructional methods."

SECTION 2. Chapter 301, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART III. GIFTED AND TALENTED CHILDREN**

**§301- Findings and purpose.** The legislature finds that gifted and talented children are invaluable human resources with unique educational needs that can and should be addressed by specialized education and services. The purpose of this part is to recognize these needs and to authorize the department of education to provide appropriate educational placements and programs to enable these children to develop their skills and potentials.



**§301- Definitions.** As used in this part, "gifted and talented children" means students residing in the State who are of compulsory school age enrolled in and attending a public school, and whose superior performance or potential indicates exceptional ability or talent. Such ability or talent may occur singly in or in combination with any of the following areas: intellectual, creative or specific academic abilities, leadership capabilities, psychomotor abilities, or abilities in the performing or visual arts.

**§301- Programs for gifted and talented children.** The department of education is authorized to provide a statewide flexible system of educational placement and programs within the public school system which the department determines is appropriate for meeting the unique educational needs of gifted and talented children. The nature and scope of the department's educational placement and programs shall be based on but shall not be limited to the following factors: the availability of financial and physical resources within the department of education, the nature of the child's giftedness or talent, and whether the child's educational placement and program should focus on or be limited to a particular area of giftedness or talent or whether the educational placement and program should address other areas which may be beneficial to the development of the child as a whole.

**§301- Rules.** The board of education shall adopt necessary rules, in accordance with chapter 91, to administer and implement this part."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 26, 1982.)

## ACT 36

H.B. NO. 2105-82

A Bill for an Act Relating to the Towing of Abandoned Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 290-41, Hawaii Revised Statutes, is amended to read as follows:

"**§290-41<sup>1</sup> Notice to police department.** [Whenever] Before a vehicle is towed by any business engaged in towing vehicles, the owner of the towing business or his designated representative shall notify the police department of the county by telephone [within twenty-four hours from the time the vehicle is towed,] to determine if the police department of the county has any investigative interest in that vehicle, describing the vehicle, the place from which it [was] is to be towed, and such other information as the police department requires to be furnished. If the vehicle is towed and not claimed within forty-eight hours from the time the vehicle is towed, a written notification, containing the same information, shall immediately be sent to the police department by the owner of the business or his designated representative."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

**ACT 37**

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

(Approved April 26, 1982.)

**Notes**

1. Prior to amendment, section number was bracketed.

**ACT 37**

**H.B. NO. 2175-82**

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 171-36, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The board may, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease, (1) modify or eliminate any of the foregoing restrictions, or (2) extend or modify the fixed rental period of the lease, or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State of Hawaii, and their respective successors and assigns or to qualify the lessee for any state or private lending institution loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided further that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term;
- (4) The rules and regulations of the board, setting forth any additional terms and conditions which will insure and promote the purposes of the demised lands.”

**SECTION 2.** New statutory material is underscored.

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

(Approved April 26, 1982.)

**ACT 38**

**H.B. NO. 2232-82**

A Bill for an Act Relating to the Driving of Mopeds.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 291C-196, Hawaii Revised Statutes, is amended to read as follows:

“[[§291C-196]] Driving mopeds on roadways. (a) Every person driving a moped upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction[.],<sup>1</sup> except under any of the following situations:

- (1) When preparing for a left turn at an intersection or into a private road or driveway, except where prohibited by official traffic control devices;
  - (2) When reasonably necessary to avoid conditions (including, but not limited to fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge;
  - (3) When a roadway is designated and signposted to carry traffic in one direction only and has two or more marked traffic lanes, a person operating a moped may ride as near to the left-hand side of the roadway as practicable.
- (b) Persons driving mopeds upon a roadway shall drive in single file.
- (c) No person shall drive a moped on any sidewalk or area intended for use as a sidewalk, nor shall any person drive a moped on any path or other area intended for the exclusive use of pedestrians.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 26, 1982.)

**Notes**

1. The comma should be underscored.

ACT 39

H.B. NO. 2406-82

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-57, Hawaii Revised Statutes, is amended to read as follows:

“**§281-57 Notice.** Upon the filing of the inspector’s report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than twenty-one days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time

of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission's fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application, to not less than two-thirds of [the persons being] the owners [or] and lessees of record of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than twenty-one days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice and provided further that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of [the persons being] the owners [or] and lessees of record of real estate situated within a distance of one hundred feet from the nearest point of the premises as provided herein. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition, for each condominium project within the affected area, one notice of the hearing shall be sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium involved. For purposes of this section, notice to one co-owner and one co-lessee shall be sufficient notice to all co-owners and all co-lessees."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 26, 1982.)

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 4 of Act 225, Session Laws of Hawaii 1981, is amended to read as follows:

"SECTION 4. Any other law to the contrary notwithstanding, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is hereby authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in Section 2 and Section 3, or (2) on January 1, [1983.] 1984, whichever occurs first."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 26, 1982.)

## ACT 41

H.B. NO. 2902-82

A Bill for an Act Relating to Safety Deposit Boxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 402, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**“§402-9 Access to safety deposit boxes by certain fiduciaries.** Where a safety deposit box is let by a fiduciary company to one or more persons acting as personal representatives, trustees or guardians, the fiduciary company may, except as otherwise expressly provided by the terms of the lease or by the will or other instrument or order or decree under which such person or persons may be acting, allow access thereto and removal of the contents of the safety deposit box upon obtaining proper receipt from:

- (1) Any one or more of the persons acting as personal representatives or guardians;
- (2) Any one or more of the persons acting as trustees when authorized in a writing signed by all other persons so acting; or
- (3) Any agent, authorized to have such right of access or removal in a writing signed by the person, or if more than one, by all the persons acting as personal representatives, trustees or guardians and duly notarized.

No fiduciary company shall be liable for damages for allowing or refusing access to or removal of the contents of the safety deposit box under the provisions of this section.

Where one or more trustees lease a safety deposit box from a fiduciary company in the name of a trust and access to the box is sought by fewer than all of the trustees, or by an agent of the trustee or trustees, the fiduciary company is not bound to inquire whether a breach of trust is being committed by authorizing such agent or fewer than all of the trustees to have access. In such a situation, in the absence of bad faith, the fiduciary company is not liable for any consequent loss to the trust.

For the purposes of this section, “fiduciary company” shall include national banks.”

SECTION 2. New statutory material is underscored.

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

(Approved April 26, 1982.)

## ACT 42

H.B. NO. 3124-82

A Bill for an Act Relating to Authorized Absence from a Psychiatric Facility.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-75, Hawaii Revised Statutes, is amended to read as follows:

**“§334-75 Authorized absence.** The administrator of a psychiatric facility or his deputy may grant authorized absence from the facility to any patient upon such

terms and conditions as the administrator or his deputy may deem advisable, and, as to a patient admitted or committed on court order, with the prior approval of the court for periods in excess of thirty days, and without the approval of the court for periods up to thirty days, or, as to a patient transferred under section 334-74, with the prior approval of the official effecting the transfer[.]; provided that if a patient has been admitted or committed on court order after having been charged with a felony or misdemeanor pursuant to chapter 707, an absence can be authorized only with the prior approval of the court, except where the absence is supervised by the presence of someone from the facility.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 26, 1982.)

A Bill for an Act Relating to Inheritance Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 236-27, Hawaii Revised Statutes, is amended to read:  
**“§236-27 Returns; department’s determination.** The personal representative or other person or fiduciary charged with the care of the decedent’s estate shall file a return in such form as the department of taxation shall prescribe showing all property known to him, the transfer of which is subject to tax under this chapter, whether or not the personal representative, person or fiduciary has such property in charge, with the deductions and exemptions applicable thereto, and such other information as the department may require. The completed return shall be filed within eighteen months from the date of death of the decedent and shall be accompanied by the amount of the tax computed and payable thereon. The tax shall be computed at the rate or rates prescribed in this chapter. The department shall audit such return and shall have all of the powers granted to it for the making of audits and the determination of the correct amount of taxes, including, without prejudice to the generality of the foregoing, the power to examine, and require the production of, all account books, bank books, bank statements, records, vouchers, and other documents and evidences relevant to the determination of the tax under this chapter. From such return, and from the best information available, the department shall make its determination of the values of all inheritances, devises, bequests, or other interests, and the taxes to which the same are liable; and the department shall, by mail or otherwise, give notice thereof to the personal representative and to any interested person who has filed a request for such notice with the department. Prior to the giving of the final receipt provided for by section 236-31, or the entry of the order provided for in section 236-28, as the case may be, the department may redetermine such values and amounts of taxes. Nothing in this section shall be deemed to impose any tax liability on the personal representative, other than as set forth in other provisions of this chapter.”

SECTION 2. New material is underscored.

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

(Approved April 26, 1982.)

## ACT 44

S.B. NO. 2377-82

A Bill for an Act Relating to the Hawaii Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-734, Hawaii Penal Code, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of sodomy in the second degree if:

- (a) The person intentionally, by forcible compulsion, engages in deviate sexual intercourse with another person or causes another person to engage in deviate sexual intercourse; or
- (b) The person intentionally engages in deviate sexual intercourse with another person who is less than fourteen years old.”

SECTION 2. New statutory material is underscored.

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

(Approved April 26, 1982.)

## ACT 45

S.B. NO. 2520-82

A Bill for an Act Relating to Notaries Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 456-4, Hawaii Revised Statutes, is amended to read:

“**§456-4 Filing copy of commission; authentication of acts.** Each person appointed and commissioned a notary public under this chapter shall forthwith file a literal or photostatic copy of his commission, an impression of his seal, and a specimen of his official signature with the clerk of the circuit court of [each judicial circuit] the circuit in which the notary public resides. Each person appointed and commissioned a notary public under this chapter may also, at his option, file the above-named documents with the clerk of any other circuit court. Thereafter any clerk, when thereunto requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal, and specimen of official signature is so filed in his office.”

SECTION 2. Section 456-16, Hawaii Revised Statutes, is amended to read:

“**§456-16 Disposition of records, penalty.** The records of each notary public shall each year on [June 30] July 1 and upon the resignation, death, expiration of term of office, or removal from or abandonment of office, be deposited with the clerk of the circuit court of the judicial circuit in which the notary public resides. By a neglect of sixty days to comply with the above requisition, the notary or his

**ACT 46**

personal representative shall forfeit to the State not less than \$50 nor more than \$500, in the discretion of the court, in an action brought therefor by the attorney general on behalf of the State.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 26, 1982.)

**ACT 46**

**S.B. NO. 2993-82**

A Bill for an Act Relating to Father Damien DeVeuster Day.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- **Father Damien DeVeuster Day.** April 15 of each year shall be known and designated as “Father Damien DeVeuster Day”, provided that this day is not and shall not be construed to be a state holiday.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved April 26, 1982.)

**Notes**

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 47**

**H.B. NO. 3133-82**

A Bill for an Act Relating to the Funding of County Emergency Medical Services Deficits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the state general fund the sum of \$1,034,396 to supplement prior appropriations for the emergency ambulance services on the four counties.

- |   |           |
|---|-----------|
| 1. City and County of Honolulu emergency ambulance services | \$584,396 |
| 2. Maui County emergency ambulance services                 | 97,778    |
| 3. Kauai County emergency ambulance services                | 99,493    |
| 4. Hawaii County emergency ambulance services               | 252,729   |

SECTION 2. The sum appropriated shall be expended by the state department of health for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1982 shall lapse into the state general fund.

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

(Approved April 26, 1982.)



## ACT 48

H.B. NO. 2629-82

A Bill for an Act Relating to Custodial Interference.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to permit prosecution for custodial interference when a person violates an existing court order issued pursuant to chapter 585, Hawaii Revised Statutes.

SECTION 2. Section 707-726, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§707-726]]~~ **Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the first degree if:

- (a) Being a relative of the person, he knowingly takes or entices a person less than eighteen years old from any other person who has a right to custody pursuant to a court order, judgment, or decree; or knowingly violates a court order issued pursuant to chapter 585; and
  - (b) He removes himself and the person less than eighteen years old from the State.
- (2) Custodial interference in the first degree is a class C felony.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 26, 1982.)

## ACT 49

S.B. NO. 2345-82

A Bill for an Act Relating to Family Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Involuntary termination.

- (1) The family courts may terminate the parental rights in respect to any child as to any legal parent:
  - (A) Who has deserted the child without affording means of identification for a period of at least ninety days;
  - (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
  - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
  - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
  - (E) Whose child has been removed from [his] the parent's physical

custody pursuant to legally authorized judicial action under section 571-11(2)(A)[.] or (B) and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;

- (F) Who is found by the court to be mentally ill or mentally retarded and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child;
  - (G) Who is found not to be the child's natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption, or who is named as the father on the child's birth certificate:
- (A) Who falls within subparagraphs (A), (B), (C), (D), (E), or (F) of paragraph (1) above;
  - (B) Whose child is sought to be adopted by the child's stepfather and said stepfather has lived with said child and said child's legal mother for a period of at least one year;
  - (C) Who has failed to file a petition for the adoption of said child or whose petition for the adoption of said child has been denied;
  - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to any proceedings under paragraphs (1) and (2) herein, the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. In the event that personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption.

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to said father, the court shall conduct a hearing to determine whether notice must be given.

In the event the court finds that good cause exists why notice cannot or should not be given to the child's father, and that said father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of said father's parental rights and the subsequent adoption of said child without notice to said father."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 28, 1982.)

## ACT 50

S.B. NO. 2475-82

A Bill for an Act Relating to Names.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended to read as follows:

**"§574-5 How changed.** It shall not be lawful to change any name adopted or conferred under this chapter, except (1) upon an order of the lieutenant governor which order shall be founded upon a petition executed by the person desirous of changing his or her name, or, in the case of a minor, by the parents or by such parent who has custody of the minor, with the consent of the noncustodial parent, or by the guardian of the person of the minor, which petition shall be accompanied by the payment of filing costs in the amount of \$5, and shall be published once in a newspaper of general circulation in the State in such order mentioned, and the petitioner shall deposit in the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the order, the affidavit to show that the order has been published as provided herein, and to have attached thereto a clipping showing the order as published, or (2) by the person desirous of changing his or her name, which petition shall be accompanied by the payment of filing costs in the amount of \$5 and an affidavit executed by a prosecuting attorney of this State, the affidavit to show that for the protection of the person desirous of changing his or her name, the requirement of publication in a newspaper of general circulation in the State, the recordation in the bureau of conveyances, and the report to the registrar of births of such order shall not be necessary, or [(2)] (3) by any court or judge of competent jurisdiction, embodying in a decree of adoption a provision for change of name of the person adopted, or embodying in a decree of divorce a provision that either party may upon the divorce resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage, or [(3)] (4) upon legitimation pursuant to section 338-21.

[The change of name provided for herein by order of the lieutenant governor shall be effective upon the date of the signing of the order.

In all cases of change of name, except as otherwise provided, the order or

**ACT 51**

decree shall be recorded in the bureau of conveyances and reported to the registrar of births.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed.]”

SECTION 2. Chapter 574, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§574- Effect of change. The change of name provided for herein by order of the lieutenant governor shall be effective upon the date of the signing of the order.

In all cases of change of name, except as otherwise provided, the order or decree shall be recorded in the bureau of conveyances and reported to the registrar of births.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 28, 1982.)

**Notes**

1. The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 51**

**S.B. NO. 2523-82**

A Bill for an Act Relating to Workers’ Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-95, Hawaii Revised Statutes, is amended to read as follows:

“§386-95 **Reports of injuries, other reports, penalty.** Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment, when known to him or brought to his attention.

Within seven working days after the employer has knowledge of such injury causing absence from work for one day or more or requiring medical treatment beyond ordinary first aid, he shall make a report thereon to the director of labor and industrial relations. The report shall set forth the name, address, and nature of the employer’s business and the name, age, sex, wages, and occupation of the injured employee and shall state the date and hour of the accident, if the injury is produced thereby, and the nature and cause of the injury and such other information as the director may require.

On [June 30 and] December 31 of each year the employer shall make a report

to the director with respect to each injury on which he is continuing to pay compensation, showing all amounts theretofore paid by him on account of the injury.

The reports required by this section shall be made on forms to be obtained from the director pursuant to section 386-71 and deposit of reports in the United States mails, addressed to the director, within the time specified shall be deemed compliance with the requirements of this section.

When an injury results in immediate death, the employer shall within forty-eight hours notify personally or by telephone a representative of the department of labor and industrial relations in the county where the injury occurred.

Within thirty days after final payment of compensation for an injury, the employer shall make a final report to the director showing the total payments made, the date of termination of temporary total disability, and such other information as the director may require.

Any employer who wilfully refuses or neglects to make any of the reports or give any notice required by this section shall be fined not more than \$100, or imprisoned not more than ninety days, or both.

Copies of all reports, other than those of fatal injuries, filed with the director as required by this section shall be sent to the injured employee by the employer."

SECTION 2. Section 386-154, Hawaii Revised Statutes, is amended to read as follows:

**"§386-154 Charge against employers not insured under section 386-121(a)(1).** (a) As used in this section:

- (1) "Employing unit" means an employer who has not secured compensation to his employees under section 386-121(a)(1).
- (2) "Average annual compensation" means the average of annual compensation payments made by an employing unit for a period consisting of two consecutive calendar years immediately preceding the year for which the charge is assessed under this section; provided that if, at the end of a calendar year, an employing unit was subject to this chapter for a period less than twelve consecutive months the total amount of compensation payments made by him during such period shall constitute his average annual compensation.
- (3) "Employing unit's compensation ratio" means the percentage ratio derived by dividing an employing unit's average annual compensation at the end of a calendar year by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.
- (4) "Carrier's compensation ratio" means the quotient derived by dividing the total average annual compensation paid during the two most recent calendar years by all insurance carriers on behalf of employers insured and keeping insured under section 386-121(a)(1) by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.
- (5) "Anticipated total assessment" means the amount derived by dividing the total amount of the levy to be paid by insurance carriers in a calendar year as required by section 386-153 by the most recent carrier's compensation ratio.

**ACT 52**

(b) For the calendar year 1974 and for each calendar year thereafter an employing unit shall, except as otherwise provided in section 386-152, pay into the special compensation fund a charge in an amount which is equal to the product derived by multiplying his most recent compensation ratio by the most recent anticipated total assessment.

For each calendar year the director of regulatory agencies shall determine the amount of the charge to be paid by each employing unit, and shall give notice of such charge to each employing unit by [May 1] August 15 of the year for which the charge is assessed. The amount of the charge shall be paid on or before [June 30] September 30 following notification.

The director of finance may withhold the additional charge due from a political subdivision from any moneys due the subdivision from the State if the subdivision has not paid its charge as required by this section and shall deposit the withheld amount in the special compensation fund.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval, provided that section 2 of this Act shall take effect on January 1, 1983.

(Approved April 28, 1982.)

**ACT 52**

S.B. NO. 2528-82

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Funeral and burial allowance. Where a work injury causes death, the employer shall pay funeral expenses not to exceed [\$1,000] ten times the maximum weekly benefit rate to the mortician and burial expenses not to exceed [\$500] five times the maximum weekly benefit rate to the cemetery selected by the family or next of kin of the deceased or in the absence of such family or next of kin, by the employer. Such payments shall be made directly to the mortician and cemetery; provided that when the deceased has a pre-paid funeral and burial plan such payments for funeral and burial expenses, not to exceed the foregoing limits, shall be made directly to the surviving spouse of the decedent's estate if there is no surviving spouse.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 28, 1982.)

**ACT 53**

H.B. NO. 3109-82

A Bill for an Act Relating to the Environment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and declaration of necessity. The legislature finds that:

(a) Changes in the control and the sale of a substantial portion of the assets of publicly owned Hawaii corporations may have a substantial effect on the environment of Hawaii. Because the economy of Hawaii depends upon a limited number of industries, the change in control or the disposition of a substantial portion of the assets of a single publicly owned Hawaii corporation could have a substantial impact on the economy of Hawaii. Rapid changes in the manner in which these corporations do business in Hawaii could adversely affect the welfare of Hawaii citizens through loss of jobs and changes in land use. Particularly in the case of our agricultural industry a change in control or the sale of substantial assets could greatly accelerate the contractions in this industry which are already taking place.

(b) The Hawaii Constitution provides in Section 3 of Article XI that the State shall conserve and protect agricultural lands and requires a two-thirds vote of the responsible governmental body before agricultural land is reclassified to another use. To carry out this intent, it is essential that the public be informed of anticipated changes in the use of agricultural lands resulting from changes in the ownership of the stock or assets of publicly owned Hawaii corporations.

(c) The citizens of Hawaii owning stock in publicly owned Hawaii corporations should be made aware of significant changes in the ownership of the stock or the assets of publicly owned Hawaii corporations. The citizens of Hawaii can then make an informed judgment whether to sell or retain their ownership interests in these corporations or otherwise exercise their rights as stockholders and in so doing influence whether there will be changes in the environment of Hawaii.

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

## **“CHAPTER HAWAII ENVIRONMENTAL DISCLOSURE LAW**

§ **Short title.** This chapter may be cited as the Hawaii Environmental Disclosure Act.

§ **Definitions.** As used in this chapter unless the context otherwise requires:

(a) “Affiliate” means any person controlling, controlled by, or under common control with another person.

(b) “Control” means either (1) holding fifty per cent or more of the outstanding voting securities of an issuer; or (2) having the power to direct or cause to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(c) “Entity” means any natural person, corporation, company, partnership, joint venture, association, joint-stock company, trust, institution, or other group organized for any purpose, whether incorporated or not, wherever located and of whatever citizenship.

(d) “Office” means office of environmental quality control.

(e) “Person” means an entity and all of its affiliates.

(f) "Voting securities" means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer, or any entity included within the same person as the issuer, with respect to unincorporated entities, individuals exercising similar functions.

§ **Filing.** No person owning beneficially ten per cent or more of any class of voting securities of any Hawaii corporation shall purchase or pay for more than an additional five per cent of any such security or five per cent or more of the assets of such Hawaii corporation during any twelve-month period without first complying with the following requirements:

(a) Filing a statement with the office in the form designated by the office which includes:

- (1) A complete and detailed description of the person, its organization, its capitalization, and its operations, including a breakdown of sales for each line of business activity according to the applicable four-digit-product-number listed in the most recent edition of the Standard Industrial Classification Manual published by the Executive Office of the President, Office of Management and Budget;
- (2) Copies of the person's audited financial statements, balance sheets, and income statements for the past five years;
- (3) A complete and detailed history of the person's prior compliance or non-compliance with all applicable environmental laws and regulations including those promulgated by the United States government, any state government or any municipal government of the United States;
- (4) A description of all judicial and administrative proceedings during the preceding five years to which the person was a party and which involved any issue concerning any environmental law or regulation.
- (5) A complete and detailed statement of all intentions by the person to influence the issuer of the voting security or any of its affiliates to take any action within the following five years which might require the filing of an environmental impact statement pursuant to chapter 343, Hawaii Revised Statutes; and

(b) Waiting for fifteen days after delivery of the above statement to the office or such longer time as the office may order pursuant to section            or section           

§ **Hearing.** (a) If the office has probable cause to believe that a statement filed by any persons pursuant to section            is either incomplete, inadequate, or misleading in any way, the office may in its discretion issue an order extending the fifteen-day waiting period described in the previous section for no more than an additional forty-five days pending a hearing.

(b) The subject of the hearing shall be the adequacy, accuracy, and completeness of the filing made pursuant to the preceding section. The hearing must be commenced within thirty days of the filing at issue and must be concluded within fifty-five days of the filing. The hearing shall be public and any person with information relevant to the subject of the hearing shall be given an opportunity to testify either in person or in writing. Within five days of the conclusion of the hearing, the office shall issue a written, public opinion on the adequacy, completeness, and accuracy of the filing.



§ **Relevant documents.** The office in its discretion may require the person submitting the filing and any of its affiliates to produce to the office within a reasonable time not to exceed thirty days documents within the person's possession, custody, or control which are relevant to the adequacy, completeness and accuracy of the person's filing.

§ **Prohibition of further purchases.** In the event that any person refuses to file as required by section \_\_\_\_\_, to participate in a hearing or fails to produce relevant documents requested by the office in accordance with section \_\_\_\_\_, the office may in its discretion recommend to the attorney general that action be taken to prohibit such person from purchasing more than five per cent of the voting securities or the assets which are the subject of the filing within any subsequent twelve-month period. The prohibition shall not preclude such person from seeking to purchase additional securities or assets pursuant to a subsequent filing with the office.

§ **Amended filings.** Any amended filing which the office in its discretion deems significant shall be considered a subsequent filing, recommencing a new waiting period and an opportunity for a hearing. Any amended filing which the office in its discretion deems insignificant shall be considered part of the original filing and shall not recommence a new waiting period nor another opportunity for a hearing.

§ **Subsequent filings.** A subsequent filing by any persons shall be treated as a new filing. No determination of the office concerning a previous filing shall be binding on any subsequent filing. The adequacy, accuracy, completeness, and timeliness of each subsequent filing shall be evaluated independently.

§ **Exemptions.** The following transactions are exempt from the filing requirements of this chapter:

- (a) Purchases of any voting securities or assets by a person already owning fifty per cent or more of such voting securities or assets.
- (b) Purchases of voting securities or assets of a corporation having less than 100 stockholders of record.

§ **Enforcement and penalties.** (a) Whenever it appears to the office that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, the office may in its discretion refer such evidence to the attorney general who may bring an action in any court of competent jurisdiction to enjoin such act or practice, to enforce compliance with this chapter, and to impose a civil penalty not to exceed \$100,000. Any aggrieved person including the corporation issuing the voting securities or owning the assets in question, any owner of such voting securities, and any person who sold such voting securities in a transaction violating this chapter also shall have standing to bring an action in any court of competent jurisdiction to enjoin any person from any act or practice which constitutes a violation of this chapter, and to obtain such other relief as the court may deem appropriate.

(b) Upon a proper showing, the court may (1) grant a permanent or temporary injunction or restraining order; (2) order rescission of any sales or purchases of voting securities or assets determined to be unlawful under this

chapter; (3) impose a civil penalty not to exceed \$100,000; and (4) award such other relief as it may deem just and proper, including directing the subject person to refuse to transfer such securities on its books and to refuse to recognize any vote with respect to such securities.

(c) A person who successfully brings an action under this section shall be entitled to recover reasonable costs and attorney's fees.

(d) The rights and remedies of this chapter are in addition to any other rights or remedies that may exist at law or equity.

§ **Saving clause.** In the event that any provision or application of this chapter shall be held illegal or invalid for any reason, such holding shall not affect the legality or validity of any other provision or application thereof."

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

(Approved April 28, 1982.)

ACT 54

H.B. NO. 3119-82

A Bill for an Act Relating to Residential Group Living.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** Present law limits the number of residents in special group homes to a level which is economically unfeasible. This Act will allow unrelated persons to live in a group home and will allow special needs people a chance to live independently in their own community.

SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director shall adopt rules regarding care homes in accordance with chapter 91 which shall be designed to:

Protect the health, safety, and civil rights of persons residing in<sup>1</sup> facilities regulated;

(2) Provide for the licensing of facilities regulated; provided that in areas zoned for residential use, the rules shall allow group living in a family care home of up to five persons, including the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, whether or not such persons are related, and the home operator or facility staff. For purposes of this section, "elderly person" means an elderly person as defined under section 359-52; "handicapped person" means a handicapped individual as defined under section 515-2; "developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333E-2; and "totally disabled person" means a person totally disabled as defined under section 235-1;

(3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and

(4) Provide penalties for the failure to comply with any rule."

SECTION 3. Section 346-1, Hawaii Revised Statutes, is amended by amending the definition of "adult family boarding home" to read as follows:

““Adult family boarding home” means any family home providing twenty-four hour living accommodations for a fee to [one to four] adults unrelated to the family, who are in need of minimal assistance and supervision in their living activities, and includes other similar institutions[.], which home accommodates group living by up to eight persons, including the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, whether or not such persons are related, and the home operator or facility staff. For purposes of this definition, “elderly person” means an elderly person as defined under section 359-52; “handicapped person” means a handicapped individual as defined under section 515-2; “developmentally disabled person” means a person suffering from developmental disabilities as defined under section 333E-2; and “totally disabled person” means a person totally disabled as defined under section 235-1.”

SECTION 4. Section 346-92, Hawaii Revised Statutes, is amended to read as follows:

“~~[[ ]~~**§346-92**~~[[ ]]~~ **Rules.** The department shall adopt such rules as are necessary and in accordance with chapter 91 to carry out the purpose of this subpart and to:

- (1) Protect the health, safety, and welfare of adults residing in adult family boarding homes;
- (2) Establish and enforce minimum licensing standards[; and]; provided that in areas zoned for residential use, the rules shall allow group living in adult family boarding homes of up to eight persons, including the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, whether or not such persons are related, and the home operator or facility staff; and
- (3) Comply with applicable statutes and regulations.”

SECTION 5. Section 46-4, Hawaii Revised Statutes, is amended to read as follows:

“**§46-4 County zoning.** (a) This section and any ordinances or rules and regulations adopted in accordance with it, shall apply only to those lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district as shall be deemed best suited to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land so as to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

- (1) The areas within which agriculture, forestry, industry, trade, and business may be conducted.
- (2) The areas in which residential uses may be regulated or prohibited.
- (3) The areas bordering natural watercourses, channels, and streams, in

which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted.

- (4) The areas in which particular uses may be subjected to special restrictions.
- (5) The locations of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- (6) The location, height, bulk, number of stories, and size of buildings and other structures.
- (7) The location of roads, schools, and recreation areas.
- (8) Building setback lines and future street lines.
- (9) The density and distribution of population.
- (10) The percentage of lot which may be occupied, size of yards, courts, and other open spaces.
- (11) Minimum and maximum lot sizes.
- (12) Other such regulations as may be deemed by the boards or city council as necessary and proper to permit and encourage orderly development of land resources within their jurisdictions.

The council of any county shall prescribe such rules and regulations and administrative procedures and provide such personnel as it may deem necessary for the enforcement of this section and any ordinance enacted in accordance therewith. The ordinances may be enforced by appropriate fines and penalties, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Nothing in this section shall invalidate any zoning ordinances or regulation adopted by any county or other agency of government pursuant to the statutes in effect prior to July 1, 1957.

The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accord with a long range, comprehensive, general plan, and to insure the greatest benefit for the State as a whole. This section shall not be construed to limit or repeal any powers now possessed by any county to achieve the ends through zoning and building regulations, except insofar as forest and water reserve zones are concerned and as provided in [subsection (c).] subsections (c) and (d).

Neither this section nor any ordinance enacted under this section shall prohibit the continuance of the lawful use of any building or premises for any trade, industry, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single family or duplex) or agricultural uses. Nothing in this section shall affect or impair the powers and duties of the director of transportation as set forth in chapter 262.

(b) Any final order of a zoning agency established under this section may be appealed to the circuit court of the circuit in which the land in question is found. The appeal shall be in accord with the Hawaii rules of civil procedure.

(c) Neither this section nor any other law, county ordinance, or rule shall prohibit the construction of two single-family dwelling units on any lot where a residential dwelling unit is permitted; provided:

- (1) All applicable county requirements, not inconsistent with the intent of this subsection, are met, including building height, setback, maximum lot coverage, parking, and floor area requirements; and
- (2) The county determines that public facilities are adequate to service the additional dwelling units permitted by this subsection.

This subsection shall not apply to lots developed under planned unit development, cluster development, or similar provisions which allow the aggregate number of dwelling units for the development to exceed the density otherwise allowed in the zoning district.

Each county shall establish a review and permit procedure necessary for the purposes of this subsection.

(d) In areas zoned for residential use, neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities licensed by the State as provided for under sections 321-15.6, 346-91, or 346-122 for persons, including the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, whether or not such persons are related, and the home operator or facility staff; provided that such group living facilities meet all applicable county requirements, not inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor area requirements. For purposes of this section, "elderly person" means an elderly person as defined under section 359-52; "handicapped person" means a handicapped individual as defined under section 515-2; "developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333E-2; and "totally disabled person" means a person totally disabled as defined under section 235-1."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect on September 1, 1982.

(Approved May 1, 1982.)

#### Notes

1. Prior to amendment, here appeared the word "the".

ACT 55

S.B. NO. 505

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-36, Hawaii Revised Statutes, is amended to read: "**§171-36 Lease restrictions; generally.** (a) Except as otherwise provided, the

following restrictions shall apply to all leases:

- (1) Options for renewal of terms are prohibited;
- (2) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet the requirements of the Federal Housing Administration, Federal National Mortgage Association, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or Veterans Administration requirements[.]; provided[.], that the aggregate of the initial term and extension shall in no event exceed seventy-five years;
- (3) No lease shall be made for any land under a lease which has more than two years to run;
- (4) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions;
- (5) No lease shall be transferable or assignable, except by devise, bequest, or intestate succession; provided[.], that with the approval of the board of land and natural resources, the assignment and transfer of a lease or unit thereof may be made if:
  - (A) It contains the personal residence of the lessee;
  - (B) In the case of commercial, industrial, hotel, resort, apartment, and other business uses, the lessee was required to put in substantial building improvements;
  - (C) The lessee becomes mentally or physically disabled;
  - (D) Extreme economic hardship is demonstrated to the satisfaction of the board; or
  - (E) It is to the corporate successor of the lessee; provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration paid by the assignee and, if necessary, revise the rent of the demised premises based upon the consideration paid by the assignee; and provided that the rent shall not be revised downward;
- (6) The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board[.]; provided[.], that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee [and]; provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee[.]; and provided[.], that the rent may not be revised downward;
- (7) The lease shall be for a specific use or uses and shall not include waste lands, unless it is impractical to provide otherwise;
- (8) Mineral and metallic rights and surface and ground water shall be reserved to the State;
- (9) No lease of public lands, including submerged lands, nor any extension of any such lease, shall be issued by the State to any person to construct, use, or maintain a sunbathing or swimming pier or to use the lands for such purposes, unless such lease, or any extension thereof, contains pro-

visions permitting the general public to use the pier facilities on the public lands and requiring that a sign or signs be placed on the pier, clearly visible to the public, which indicates the public's right to the use of such pier. The board shall, at the earliest practicable date, and where legally possible, cause all existing leases to be amended to conform to this paragraph. The term "lease", for the purposes of this paragraph, [shall include] includes month to month rental agreements and similar tenancies.

(b) The board may, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease[,] (1) modify or eliminate any of the foregoing restrictions, [or] (2) extend or modify the fixed rental period of the lease, or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State [of Hawaii], and their respective successors and assigns or to qualify the lessee for any state loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided further that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term;
- (4) The rules [and regulations] of the board, setting forth any additional terms and conditions which [will] shall insure and promote the purposes of the demised lands."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 1, 1982.)

## ACT 56

S.B. NO. 2137-82

A Bill for an Act Relating to Motor Vehicle Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The plan shall provide all no-fault benefits and services, and tort liability coverage, to the limits and coverages specified in part I for all classes of persons, motor vehicles, and motor vehicle uses specified in this section upon the payment of premiums as provided in section 294-24, as follows:

- (1) The plan shall provide no-fault benefits and policies for each of the following classes, and each class shall be able to secure a no-fault and tort liability policy through the plan:
  - (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner [shall, by regulation,], by rules, shall define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of his examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk automobile driver.
  - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
    - (i) Heedless and careless driving,
    - (ii) Driving while license suspended or revoked,
    - (iii) Leaving the scene of an accident,
    - (iv) Manslaughter, if resulting from the operation of a motor vehicle,
    - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marijuana, as provided in section 291-7.
  - (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuitously.
  - (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in subparagraph (C) or the exclusive use of a vehicle for domestic-household-familial purposes.
  - (E) All motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under chapter 286.
- (2) The plan shall provide no-fault benefits and policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under section 294-24, at the options of the owners, for the following classes, which the commissioner [shall, by regulation,], by rules, shall further define and regulate:
  - (A) All licensed drivers receiving public assistance benefits consisting of medical services or direct cash payments through the department of social services and housing, or benefits from the [Supplemental Security Income Program] supplemental security income program under the Social Security Administration; provided [such] the licensed drivers are the sole registered owners of the motor vehicles to be insured; provided further that not more than one vehicle per public assistance unit shall be insured under this chapter unless extra vehicles are approved by the department of social services and housing as being necessary for medical or employment purposes.



- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver-owner under subparagraph (A) or (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been canceled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible, under [regulations to be] rules adopted by the commissioner, under subparagraph (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

A certificate shall be issued by the department of social services and housing indicating that the person is a bona fide public assistance recipient as defined in subparagraph (A). The certificate shall be deemed a policy for the purposes of chapter 431 upon the issuance of a valid no-fault insurance identification card pursuant to section 294-8.5.

- (3) Under the joint underwriting plan, all basic no-fault coverages, including the basic no-fault policy, the mandatory \$25,000 public liability and the \$10,000 property damage policies shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, optional additional coverage shall be offered by every insurer in conformance with section 294-11, for each class except that defined in paragraph (2)(A), as the commissioner [shall, by regulation,], by rules, shall provide."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 1, 1982.)

ACT 57

S.B. NO. 2190-82

A Bill for an Act Relating to the Criminal Justice Information Data Center.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 846-2, Hawaii Revised Statutes, is amended to read: "**§846-2 Establishment of the data center.** There shall be a data center which shall be attached to the judiciary for administrative purposes until July 1, 1981, at which time the data center shall be attached to the department of the attorney general for administrative purposes. The data center shall be directed and managed by an interim director to be appointed by the governor until July 1, 1981, and thereafter, by a director appointed by the attorney general[.] without regard to chapters 76 and 77. There shall also be a committee, appointed by the attorney general, composed of selected criminal justice user-agency personnel, to act in an advisory capacity to the data center in matters related to interagency coordination and user needs."

SECTION 2. Section 846-2.5, Hawaii Revised Statutes, is amended to read:

**“[[§846-2.5]] Purpose of the criminal justice [information] data center.**

(a) The Hawaii criminal justice [information] data center, hereinafter referred to as the “data center”, shall be responsible for the collection, storage, dissemination, and analysis of all pertinent criminal history record information from all criminal justice agencies and to provide for the collection, storage, and dissemination of criminal history record information by criminal justice agencies in such a manner as to balance the right of the public and press to be informed, the right of privacy of individual citizens, and the necessity for law enforcement agencies to utilize the tools needed to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime.

(b) In order to accomplish this purpose, the data center shall publish periodic reports which shall provide the public with a clear view of the criminal justice systems.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 1, 1982.)

A Bill for an Act Relating to Employment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-168, Hawaii Revised Statutes, is amended to read as follows:

**“§383-168 Definitions.** As used in this part, unless the context clearly requires otherwise:

- (1) “Extended benefit period” means a period which:
  - (A) Begins with the third week after [whichever of the following weeks occurs first:
    - (i) A week for which there is a national “on” indicator, or
    - (ii) A] the first week for which there is a state “on” indicator; and
  - (B) Ends with either of the following weeks, whichever occurs later:
    - (i) The third week after the first week for which there is [both a national “off” indicator and] a state “off” indicator; or
    - (ii) The thirteenth consecutive week of such period; provided that no extended benefit period may begin [by reason of a state “on” indicator] before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State; and provided further that within the period beginning on July 1, 1971 and ending on December 31, 1971, an extended benefit period may become effective and be terminated in this State solely by reason of a state “on” and a state “off” indicator, respectively].

[(2) There is a “national ‘on’ indicator” for a week if the United States

- secretary of labor determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 per cent.
- (3) There is a “national ‘off’ indicator” for a week if the United States secretary of labor determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 per cent.
- (4) (2) (A) There is a “state ‘on’ indicator” for this State for a week which begins before September 26, 1982, if the director of labor and industrial relations determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
- [(A)] (i) Equaled or exceeded 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
- [(B)] (ii) Equaled or exceeded 4 per cent.
- (B) There is a “state ‘on’ indicator” for this State for a week which begins after September 25, 1982, if the director of labor and industrial relations determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
- (i) Equaled or exceeded 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
- (ii) Equaled or exceeded 5 per cent.
- [(5)] (3) (A) There is a “state ‘off’ indicator” for this State for a week which begins before September 26, 1982, if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
- [(A)] (i) Was less than 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
- [(B)] (ii) Was less than 4 per cent.
- (B) There is a “state ‘off’ indicator” for this State for a week which begins after September 25, 1982, if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

- (i) Was less than 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
  - (ii) Was less than 5 per cent.
- [(6)] (4) (A) Effective with respect to compensation for weeks of unemployment beginning after December 31, 1977, the determination of whether there has been a state "on" or "off" indicator shall be made under [subsections (4) and (5)] paragraphs (2)(A) and (3)(A) of this section as if [subsection (4)] paragraph (2)(A) did not contain [paragraph (A)] clause (i) thereof and the figure "4" contained in [paragraph (B)] clause (ii) thereof were "5", and as if [subsection (5)] paragraph (3)(A) did not contain [paragraph (A)] clause (i) thereof and the figure "4" contained in [paragraph (B)] clause (ii) thereof were "5"; except that, notwithstanding the other provisions of this [subsection] paragraph to the contrary, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.
- (B) Effective with respect to compensation for weeks of unemployment beginning after September 25, 1982, the determination of whether there has been a state "on" or "off" indicator shall be made under paragraphs (2)(B) and (3)(B) of this section as if paragraph (2)(B) did not contain clause (i) thereof and the figure "5" contained in clause (ii) thereof were "6"; except that, notwithstanding the other provisions of this paragraph to the contrary, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.
- [(7)] (5) "Rate of insured unemployment," for purposes of paragraphs [(4)](2) and [(5)](3) of this section, means the percentage derived by dividing:
- (A) The average weekly number of individuals filing claims for regular compensation in this State for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his reports to the United States [Secretary] secretary of [Labor] labor, by
  - (B) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.
- [(8)] (6) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and [the] ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.
- [(9)] (7) "Extended benefits[.]" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this part

for weeks of unemployment in his eligibility period.

- [(10)] (8) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law, including but not limited to chapter 385.
- [(11)] (9) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any week thereafter which begins in such period.
- [(12)] (10) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:
- (A) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided that for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
  - (B) His benefit year having expired prior to such week has no, or has insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and
  - (C)
    - (i) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States [Secretary] secretary of [Labor] labor; and
    - (ii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee; provided that this provision shall not be applicable to benefits under the Virgin Islands law beginning on the day after the day on which the United States secretary of labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted by the Virgin Islands for approval.
- [(13)] (11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954."

SECTION 2. Section 384-170,<sup>1</sup> Hawaii Revised Statutes, is amended to read as follows:

**“§383-170 Eligibility requirements for extended benefits.** An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the department finds that with respect to such week:

- (1) He is an “exhaustee” as defined in section [[383-168(12)].] 383-168.
- (2) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(3) (A) Notwithstanding [the provisions of] paragraph (2) [of this section], an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if the department finds that during such period:

- (i) He failed to accept any offer of suitable work or failed to apply for any suitable work (as defined under subparagraph (C)) to which he was referred by the department; or
- (ii) He failed to actively engage in seeking work as prescribed under subparagraph (E).

(B) Any individual who has been found ineligible for extended benefits by reason of [the provisions in] subparagraph (A) shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times the extended weekly benefit amount.

(C) For purposes of this paragraph, the term “suitable work” means, with respect to any individual, any work which is within such individual’s capabilities; provided that:

- (i) The gross average weekly remuneration payable for the work shall exceed the sum of the individual’s extended weekly benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(c)(17)(D) of the federal Internal Revenue Code of 1954, as amended) payable to such individual for such week; and
- (ii) The work pays wages equal to the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or the state or local minimum wage; and
- (iii) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability described above if the position was not offered to such individual in writing and was not listed with the employment service; or such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 383-30(3) to the extent that the criteria of suitability in that section are not

inconsistent with this subparagraph [(C)]; or the individual furnishes satisfactory evidence to the department that the individual's prospects of obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 383-30(3) without regard to the definition specified in this subparagraph.

- (D) Notwithstanding [the provisions of] this paragraph to the contrary, no work shall be deemed to be suitable work for an individual which does not conform with the labor standard provisions required by section 3304(a)(5) of the federal Internal Revenue Code of 1954, as amended, and set forth under section 383-30(3).
  - (E) For the purposes of subparagraph (A)(ii), an individual shall be treated as actively engaged in seeking work during any week if:
    - (i) The individual has engaged in a systematic and sustained effort to obtain work during such week; and
    - (ii) The individual furnishes tangible evidence that he has engaged in such effort during such week.
  - (F) The employment service shall refer any claimant entitled to extended benefits under this chapter to any suitable work which meets the criteria prescribed in subparagraph (C).
- (4) Notwithstanding paragraph (2), the individual has with respect to a disqualification under section 383-30(2) for suspension for misconduct connected with the individual's work, imposed during the individual's benefit year or an extended benefit period, been employed in each of four weeks (whether or not consecutive) subsequent to such disqualification and has earned remuneration equal to not less than four times the individual extended weekly benefit amount.
- (5) Notwithstanding paragraph (2), an individual shall not be eligible for extended benefits for any week beginning after September 25, 1982, unless, in the base period with respect to which the individual exhausted all rights to regular benefits under this chapter, the individual had a total of at least twenty weeks of employment as defined in section 383-1(19)."

SECTION 3. Section 383-173, Hawaii Revised Statutes, is amended to read as follows:

**"§383-173 Beginning and termination of extended benefit period.** Whenever an extended benefit period is to become effective in this State [(or in all states)] as a result of a state [or a national] "on" indicator, or an extended benefit period is to be terminated in this State as a result of a state [and national] "off" [indicators,] indicator, the director shall make an appropriate public announcement."

SECTION 4. Section 383-174, Hawaii Revised Statutes, is amended to read as follows:

“§383-174 **Computations.** Computations required by [the provisions of] section [383-168(6)] 383-168(4) shall be made by the director, in accordance with regulations prescribed by the United States secretary of labor.”

SECTION 5. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§383- **Limitation of extended benefits by trade readjustment allowance.** Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual, but for this section, would be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amount as trade readjustment allowance within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.”

SECTION 6. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§383- **Benefits during training.** (a) Notwithstanding any other provisions of this chapter, no otherwise eligible individual shall be denied benefits for any week because that individual is in training approved under section 236(a)(1) of the Trade Act of 1974, because an individual left work to enter the training (provided the work left is not suitable employment), or because of the application to any week in training of provisions in this chapter (or any applicable federal unemployment compensation law) relating to availability for work, active search for work, or refusal to accept work.

(b) For purposes of this section, the term “suitable employment” means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eight<sup>2</sup> per cent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.”

SECTION 7. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§383- **Child support intercept of unemployment benefits.** (a) An individual filing a new claim for unemployment compensation, at the time of filing such claim, shall disclose whether or not that individual owes child support obligations as defined under subsection (g). If any individual owes child support obligations and is determined to be eligible for unemployment compensation, the department shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

(b) The department shall deduct and withhold, from any unemployment compensation payable to an individual who owes child support obligations, one of the following:

- (1) The amount specified by the individual to the department to be deducted and withheld under this subsection, if neither paragraph (2) nor (3) is applicable;



- (2) The amount, if any, determined pursuant to an agreement submitted to the department under section 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency, unless paragraph (3) is applicable; or
- (3) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the Social Security Act, properly served upon the department.

(c) Any amount deducted and withheld under subsection (b) shall be paid by the department to the appropriate state or local child support enforcement agency.

(d) Any amount deducted and withheld under subsection (b) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(e) For purposes of subsections (a) to (d), the term "unemployment compensation" means any compensation payable under this chapter, chapter 385, and amounts payable by the department pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the department under this section.

(g) As used in this section, the term "child support obligations" includes only obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act and approved by the secretary of health and human services under part D of title IV of the Social Security Act.

(h) As used in this section, the term "state or local child support enforcement agency" means any agency of a state or a political subdivision thereof operating pursuant to a plan described in subsection (g)."

SECTION 8. Section 383-161, Hawaii Revised Statutes, is amended to read as follows:

**"§383-161 Waiver of rights void.** Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter shall be void[.], except agreements to withhold and deduct benefits for the payment of child support obligations as provided in section 383- . Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be void. No employer shall, directly or indirectly, make or require or accept any deduction from wages to finance the employer's contributions required from him, require or accept any waiver of any right hereunder by any individual in his employ, discriminate in regard to the hiring or tenure of work or any term or condition of work of any individual on account of his claiming benefits under this chapter, or in any manner obstruct or impede the filing of claims for benefits. Any employer or officer or agent of any employer who violates this section shall, for each offense, be fined not less than \$100 nor more than \$1,000, or imprisoned not more than six months, or both."

## ACT 59

SECTION 9. Section 383-163, Hawaii Revised Statutes, is amended to read as follows:

**“§383-163 No assignment of benefits[; exemptions from attachment, etc.]; waiver.** No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this chapter shall be valid[; and such rights] and the right to benefits shall not be [exempt from] subject to levy, execution, attachment, garnishment, or any other remedy [whatsoever provided] for the collection of debt. No waiver of [any exemption provided for in] this section shall be valid[.], except that this section shall not apply to section 383- with respect to the withholding and deduction of benefits for the payment of child support obligations.”

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved May 4, 1982.)

### Notes

1. Probably should read “383-170”.
2. So in original.

## ACT 59

S.B. NO. 2530-82

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-78, Hawaii Revised Statutes, is amended to read as follows:

**“§386-78 Compromise.** (a) No compromise in regard to a claim for compensation pending before the director shall be valid unless it is approved by decision of the director as conforming to this chapter and made a part of such decision; provided that [such compromise shall not prejudice claimant's right to reopen his case or to future medical benefits.] any compromise in which the claimant waives or otherwise prejudices his right to reopen his case or to future medical benefits shall not be valid unless also approved in writing by the appellate board.

(b) No compromise in regard to a claim for compensation shall be effected and approved in any appeal until after the director has been notified of the proposed terms thereof and has had an opportunity to be heard relative thereto.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 4, 1982.)

## ACT 60

H.B. NO. 2511-82

A Bill for an Act Relating to Compliance Resolution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read as follows:

**“§26-9 Department of regulatory agencies.** (a) The department of regulatory agencies shall be headed by a single executive to be known as the director of regulatory agencies.

(b) The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, rules, and regulations governing the licensing and operation of, and register and supervise the conduct of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

(c) The acupuncture, cemetery and mortuary board, board of accountants, public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration for professional engineers, architects, and surveyors, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of practicing psychologists, board of detectives and guards, real estate commission, board of veterinary examiners, and speech pathology and audiology are placed within the department of regulatory agencies for administrative purposes.

(d) Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of regulatory agencies, and the composition of each board and commission shall be as heretofore provided by law.

(e) Notwithstanding any provision to the contrary, the employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department shall be determined by the director of regulatory agencies subject only to applicable personnel laws.

(f) The director of regulatory agencies may appoint a hearings officer or officers not subject to chapters 76 and 77 to hear and decide any case or controversy regarding licenses and the application and enforcement of rules involving any of the boards or commissions within the department of regulatory agencies. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be conducted in accordance with chapter 91.

(g) The director may appoint a complaints officer not subject to chapters 76 and 77 who shall facilitate the investigation and hearing of complaints.

(h) The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore consti-

tuted are transferred to the department of regulatory agencies established by this chapter. The director of regulatory agencies shall also be the insurance commissioner and commissioner of securities.

(i) In the course of an investigation of matters affecting the interest of consumers, depositors, or investors or of any other matter within the jurisdiction of the department of regulatory agencies, the director shall have the power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which he deems relevant or material to the inquiry. Upon application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

The director shall appoint and commission one or more investigators to serve subpoenas as the exigencies of the public service may require. Subpoenas served by persons appointed and commissioned by the director shall have the same force and effect as subpoenas served by police officers or deputy sheriffs. Nothing in this subsection shall be construed to entitle persons commissioned and appointed by the director to retirement benefits applicable to police officers under chapter 88. This subsection is repealed effective July 1, 1983.

(j) The director may adopt, amend, or repeal rules pursuant to chapter 91 to effectuate the purposes of all laws within the jurisdiction of the department of regulatory agencies. The director's authority to adopt rules shall not modify, impair, or otherwise affect the power of boards and commissions placed with the department of regulatory agencies for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection (k). The director may establish, amend, or repeal registration, renewal, and late renewal fees by rules pursuant to [chapter] chapter 91 for any regulatory program placed with the department of regulatory agencies.

(k) Any law to the contrary notwithstanding, the fees assessed or charged by any board or commission placed within the department of regulatory agencies for administrative purposes may be established, pursuant to chapter 91, as separate application, examination, and license fees, and be increased or decreased by the director of regulatory agencies to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered.

(l) Every licensed person under any chapter subject to section 26H-4 shall pay upon issuance of a license a fee of \$10 and a subsequent annual fee of \$10, which may be collected biennially or pursuant to rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Any unpaid fee shall accrue and shall be paid by the licensed person upon application for renewal of a license. The director may increase or decrease the annual fee when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be expended by the director or the director's designated representative for compliance resolution as provided by this subsection. The moneys in the fund shall consist of annual fees collected under this subsection. The director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel. The moneys in the funds may be used to train such personnel as the director finds necessary and for any other

activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether any licensee under any chapter subject to section 26H-4, has complied with that chapter.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. This subsection is repealed effective July 1, 1987."

SECTION 2. Notwithstanding any other law to the contrary, the department of regulatory agencies is authorized to utilize existing surpluses in existing departmental funds, or board or commission special funds, to provide initial start-up moneys for the compliance resolution fund provided for in this Act.

SECTION 3. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 26-9, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 5, 1982.)

ACT 61

H.B. NO. 2679-82

A Bill for an Act Making Appropriations for Counsel and Other Services for Indigent Defendants in Criminal and Related Cases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. This Act amends Act 22, First Special Session Laws of Hawaii, 1981.

SECTION 3. SECTION 2, Act 22, First Special Session Laws of Hawaii, 1981 is amended to read:

"SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of [~~\$400,000~~] \$700,000 or so much thereof as may be necessary for fiscal year 1981-1982 and [~~\$400,000~~] \$800,000 or so much thereof as may be necessary for fiscal year 1982-1983 to be expended by the department of budget and finance (BUF 101) for the purposes of this Act."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 5, 1982.)

## Notes

1. Prior to amendment, a comma followed the \$400,000.

## ACT 62

S.B. NO. 2814-82

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that a 1926 volcanic eruption of Mauna Loa resulted in a lava flow which completely destroyed a Hawaiian fishing village in the Milolii-Hoopulua area, thereby forcing the relocation of all its residents; that the village residents relocated their domiciles to adjacent government land, through government invitation and intervention; that county, territorial, and state governments have attempted to mitigate the adverse effects of such a natural disaster through permits, executive orders, and proposed legislation which attempted to initiate a cultural park, land exchanges, and fee simple title with the purposes of granting long-term tenure and effecting final disposition of the matter; and that the displaced Milolii-Hoopulua residents have continuously resided on such lands in a peaceful and productive manner.

Accordingly, the legislature further finds that there are compelling policy considerations in remedying the circumstances of such displaced persons, who have had justifiable expectations in relying on past government action and initiatives; that there is prevailing policy consideration in preserving the unique cultural life of the Hawaiian community; and that such policies may be accomplished by offering the eligible resident members of the Milolii-Hoopulua community the opportunity to negotiate long-term residential leases with the department of land and natural resources for parcels upon which their homes are presently located.

SECTION 2. The department of land and natural resources is authorized to negotiate and enter into long-term residential leases not to exceed sixty-five years in duration with persons who meet the following criteria:

- (1) Persons who were displaced by, or are descendants of the refugees of, the 1926 Hoopulua lava flow and who actually resided and continued to reside in the area are set aside by Executive Order 473, at some point prior to December 31, 1949; or
- (2) Persons awarded a lot in some manner under the county management of Executive Order 473, and who did not relinquish such right to others or back to the county, and who actually resided in the area set aside by Executive Order 473, at some point prior to December 31, 1949; or
- (3) Persons who resided in the area by virtue of assignment of lot by those persons who were awarded a lot in some manner under the county management of Executive Order 473; or
- (4) Any heir, consanguineous or affined, of any person qualifying under paragraph (1), (2), or (3) of this section who has established residence in the area described in section 4 of this Act; or
- (5) Persons who on the effective date of this Act reside on a parcel or parcels of land listed in section 4, have permits allowing them to reside on those

parcels; and  
 who can prove their claims to the department of land and natural resources under the provisions of this Act.

SECTION 3. The lands eligible for long-term residential lease negotiations under section 2(1), (2), (3), and (4) of this Act are limited to a portion of those lands situated at Hoopuloa, South Kona, County of Hawaii, State of Hawaii, which were set aside for a public park under the control and management of the board of supervisors of the County of Hawaii with authority to create a Hawaiian village, pursuant to the governor's Executive Order 473, dated March 19, 1931, comprising an area of 52.6 acres.

SECTION 4. The lands eligible for long-term residential lease negotiations under section 2(5) of this Act are limited to that parcel designated by tax map key 8-9-4-16, together with right-of-way across the school lot.

SECTION 5. Any other law to the contrary notwithstanding, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in Section 2 and Section 3, or (2) on January 1, 1985, whichever occurs first.

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

(Approved May 10, 1982.)

## ACT 63

H.B. NO. 1948-82

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that, in time of economic uncertainty, certain segments of Hawaii's agriculture industry may need financial assistance from the state in order to remain economically viable. The legislature further finds that the State Board of Agriculture is the appropriate State agency to determine that unforeseen circumstances have arisen which jeopardize a sector or sectors of Hawaii's agriculture industry to the extent that financial assistance by the State is warranted and that farm loans should be authorized for qualifying farmer applicants to meet emergencies.

The purpose of this Act is to improve the farm loan program and to appropriate moneys from which loans may be made.

This Act is recommended by the governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. Section 155-4, Hawaii Revised Statutes, is amended to read as follows:

**"§155-4 Powers and duties of the department.** The department of agriculture

shall have the following powers:

- (1) Employ a secretary, who may be exempt from chapters 76 and 77, and such other full-time and part-time employees, subject to chapters 76 and 77, as are necessary to effectuate the purposes of this chapter, subject further to the limitation of funds in the [farm] agricultural loan reserve fund.
  - (2) Designate such agents throughout the State as may be necessary for property appraisal, the consideration of loan applications, and the supervision of farming operations of borrowers. The agents may be compensated for their services at such rates as the department in its discretion may fix.
  - (3) Initiate and carry on a continuing research and education program, utilizing and coordinating the services and facilities of other government agencies and private lenders to the maximum, to inform qualified farmers concerning procedures for obtaining loans and to inform private lenders concerning the advantages of making loans to qualified farmers.
  - (4) Cooperate with private and federal government farm loans sources to increase the amount of loan funds available to qualified farmers in this State.
  - (5) Assist individual qualified farmers in obtaining loans from other sources. Insofar as available funds and staff permit, counsel and assist individual farmers in establishing and maintaining proper records to prove their farming ability for loan purposes.
  - (6) Insure loans made to qualified farmers by private lenders under section 155-5.
  - (7) Participate in loans made to qualified farmers by private lenders under section 155-6.
  - (8) Make loans to qualified farmers under the insured loan program of the Farmers Home Administration, subject to section 155-7.
  - (9) Make direct loans to qualified farmers under section 155-8.
  - (10) Borrow money for loan purposes.
  - (11) Assign and sell mortgages.
  - (12) Sue and be sued in the name of the "State of Hawaii".
  - (13) Exercise such incidental powers as are deemed necessary or requisite to fulfill its duty in carrying out the purposes of this chapter.
  - (14) Permit the board of agriculture to delegate authority to its chairperson to approve loans, where the requested amount plus any principal balance on existing loans to the applicant, does not exceed \$25,000 of state funds.
- [(14)] (15) Promulgate rules [and regulations] as it may deem necessary in accordance with chapter 91 having the force and effect of law."

SECTION 3. Section 155-9, Hawaii Revised Statutes, is amended to read:  
 "§155-9 **Classes of loans; purposes, terms, eligibility.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes "A" through "F" in the paragraphs following and shall be made only to



applicants who meet the eligibility requirements specified therein and except as to class "B" loans to associations and class "E" loans, the eligibility requirements specified in section 155-10. The maximum amount of a loan for class "A", "C", "D", and "F" loans to an individual applicant shall also apply to any loan application submitted by a partnership, corporation, or other entity, and for the purpose of determining whether the maximum loan amount to any individual will be exceeded, outstanding loans to any partnership, corporation, or other entity in which such individual has a legal or equitable interest in excess of twenty per cent shall be taken into account.

- (1) Class A: Farm ownership and improvement loans. To provide for:
  - (A) The purchase or improvement of farm land;
  - (B) The purchase, construction, or improvement of adequate farm dwellings, and other essential farm buildings; and
  - (C) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed [ ]\$[ ]100,000 and for a term not to exceed forty years. To be eligible, the applicant shall [ ](A)[ ] derive, or present an acceptable plan to derive, a major portion of his income from and devote, or intend to devote, most of his time to farming operations; (B) have or be able to obtain farming operating capital, including livestock and equipment, needed to successfully operate his farm.

- (2) Class B: Soil and water and conservation loans. To provide for:
  - (A) Soil conservation practices;
  - (B) Water development, conservation, and use;
  - (C) Drainage; and
  - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$35,000 to an individual or \$200,000 to an association and shall be for a term not to exceed twenty years for a loan to an individual and forty years to an association. To be eligible, an individual applicant shall have sufficient farm and other income to pay for farm operating and living expenses and to meet payments on his existing debts, including the proposed soil and water conservation loan. An association, to be eligible, shall be a nonprofit organization primarily engaged in extending services directly related to the purposes of the loan to its members, and at least sixty per cent of its membership shall meet the eligibility requirements specified in section 155-10.

- (3) Class C: Farm operating loans. To carry on and improve farming operation, including:
  - (A) The purchase of farm equipment and livestock;
  - (B) The payment of production and marketing expenses including materials, labor, and services;
  - (C) The payment of living expenses; and
  - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$100,000 and for a term not to exceed ten years. To be eligible, an applicant shall derive, or present an acceptable plan to derive, a major portion of his income from and devote, or intend to devote, most of his time to farming operations.

- (4) Class D: Emergency loans. To provide relief and rehabilitation to qualified farmers without limit as to purpose:
  - (A) In areas stricken by extraordinary rainstorms, windstorms, droughts, tidal waves, earthquakes, volcanic eruptions, and other natural catastrophes;
  - (B) On farms stricken by livestock disease epidemics and crop blights;
  - (C) On farms seriously affected by prolonged shipping and dock strikes;
  - (D) During economic emergencies caused by overproduction, excessive imports, and the like[.]; and
  - (E) During other emergencies as determined by the board of agriculture.

[Such loans shall not exceed the] The maximum amounts and [the maximum period specified in paragraphs (1) to (3) respectively, above, when the loan funds are used for the purposes specified therein.] period for such loans shall be determined by the board of agriculture; provided that the board shall require that any settlement or moneys received by qualified farmers as a result of an emergency declared under this section shall first be applied to the repayment of an emergency loan made under this chapter.

- (5) Class E: Loans to cooperatives and corporations. To provide credit to farmers' cooperative associations and corporations engaged in marketing, purchasing, and processing, and providing farm business services, including:
  - (A) Facility loans to purchase or improve land, building, and equipment for an amount not to exceed [~~\$250,000~~] \$500,000 and a term not to exceed twenty years; and
  - (B) Operating loans to finance inventories of supplies, warehousing, and shipping commodities, extension of consumer credits to justified farmer-members, and other normal operating expenses for an amount not to exceed [~~\$150,000~~] \$300,000 and a term not to exceed three years.

To be eligible, a cooperative or corporation shall have at least seventy-five per cent of its board of directors and seventy-five per cent of its membership as shareholders who meet the eligibility requirements of section 155-10 and who devote most of their time to farming operations[.], and such facility loans shall be for an amount not to exceed \$500,000 or eighty per cent of the cost of the project, whichever is the lesser.

- (6) Class F: Loans for new farmer programs. To provide for costs of a new farm enterprise for qualified farmers:
  - (A) Initial loans made under this class shall be for purposes and in

accordance with the terms specified in classes "A" and "C" only, and shall be made only for full-time farming. Such loans shall be made for an amount not to exceed [~~\$75,000~~] \$100,000 or [ninety] eighty-five per cent of the cost of the project, whichever is the lesser[.];

- (B) Any subsequent loan shall be made from classes (A) to (D), respectively, depending upon the purpose for which the loan funds are used[.]; and
- (C) Borrowers [must] shall comply with such special term loan agreements as may be required by the department and shall take such special training courses as the department deems necessary."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$3,000,000, or so much thereof as may be necessary for fiscal year 1982-1983, and the sum of \$3,000,000, or so much thereof as may be necessary for fiscal year 1982-1983, to the agricultural loan revolving fund established under section 155-14, Hawaii Revised Statutes, to carry out the purposes of this Act. The sums appropriated by this Act shall be expended by the department of agriculture.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval but shall not affect any loans made or agreements entered into prior to the effective date of this Act.

(Approved May 12, 1982.)

## ACT 64

H.B. NO. 2198-82

A Bill for an Act Relating to the Board of Dental Examiners.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 448-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) The board shall meet for the purpose of examining applicants [in February and August of each year] and for other purposes at such times as it designates. Adequate notice of the times and places of examinations shall be given by publication in a newspaper of general circulation in the State. The board may prescribe which members shall participate in the examination and licensing procedures."

SECTION 2. Section 448-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"[(a) The board of dental examiners shall examine all applicants in both theory and practice of dentistry. In the selection of subjects, it shall take cognizance of current trends in dental education. The board may accept an applicant who presents a certificate or other bona fide evidence as having passed the theory examination of the National Board of Dental Examiners in lieu of the theory portion of the state dental board examination.

The requirements for the practical examination in operative and prosthetic

dentistry shall be decided upon and announced to the applicant on the day selected for beginning the theoretical examination.

All instruments, materials, and patients shall be supplied by the applicant. An engine and chair shall be furnished by the board.

Two examinations shall be held in each year.]

(a) The state board of dental examiners shall require all applicants to take the state practical examination on dentistry. In administering the examination the State shall consider current trends in dental education. The requirements for the examination in operative and laboratory dentistry shall be decided by the board and mailed to each applicant. All instruments, materials, and patients shall be supplied by the applicant. An engine and chair shall be furnished by the board. Two examinations shall be held each year."

SECTION 3. Section 448-9, Hawaii Revised Statutes, is amended to read as follows:

**"§448-9 Application for examination; fee.** Any person of eighteen years or more, shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements.

- (1) Submit an application in writing to the secretary of the board no later than sixty days prior to the date of the scheduled examination.
- (2) Remit an examination fee set by the board with each application, said fee to be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.
- (3) Submit with each application documentation and credentials which include but are not limited to the following:
  - (A) A recent unmounted photograph of the applicant; and
  - (B) A certificate that the applicant is of good moral character; and
  - (C) A diploma or certificate of graduation from a dental college accredited by the Council of Dental Education of the American Dental Association, recognized and approved by the board [.] and
  - (D) A certificate or other evidence satisfactory to the board of having passed the theory examination of the National Board of Dental Examiners."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1982.)

ACT 65

H.B. NO. 2407-82

A Bill for an Act Relating to Liquor License.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-45, Hawaii Revised Statutes, is amended to read as follows:

**“§281-45 No license issued, when.** No license shall be issued under this chapter:

- (1) To any minor or to any person who has been convicted of a felony and not pardoned, or to any other person not deemed by the commission to be a fit and proper person to have a license;
- (2) To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph (1) of this section from obtaining the license individually, or a stockholder of which, owning or controlling twenty-five per cent or more of the outstanding capital stock would be disqualified under such paragraph (1) from obtaining the license individually;
- (3) [Unless the applicant files with the commission certificates of the same character and effect as are required by section 231-28;] Unless the applicant for a license, a renewal, or a transfer of license presents to the issuing agency, a signed certificate from the director of taxation and from the Internal Revenue Service showing that the applicant does not owe the state or federal governments any delinquent taxes, penalties, or interest.
- (4) To any applicant who has had any liquor license revoked less than two years previous to the date of the application for any like or other license under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 13, 1982.)

ACT 66

S.B. NO. 594

A Bill for an Act Relating to Cemeteries and Mortuaries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 441, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§441- Pre-need trusts and perpetual care funds; audits.** Every cemetery authority operating a perpetual care cemetery, pre-need funeral authority, and mortuary authority which engages in pre-need sales or holds moneys in trust for future funeral services shall annually submit an audited financial statement of its pre-need trusts and perpetual care funds to the bank examiner.”

SECTION 2. Section 441-20, Hawaii Revised Statutes, is amended to read as follows:

**“§441-20 License required to act as [mortuary,] cemetery[,] or pre-need funeral authority.** No person shall act as a [mortuary,] cemetery[,] or pre-need funeral authority without a license previously issued by the director in compliance with this chapter and the rules [and regulations] of the director; provided[,] that the director shall exempt any cemetery authority upon its proof satisfactory to the

director that it will not make any additional interments.”

SECTION 3. Section 441-21, Hawaii Revised Statutes, is amended to read as follows:

**“§441-21 No [mortuary,] cemetery[,] or pre-need funeral authority license issued when.** No [mortuary,] cemetery[,] or pre-need funeral authority license shall be issued:

- (1) To any person unless he has filed an application therefor;
- (2) To any person who does not possess financial integrity;
- (3) To any person unless it is a religious institution, corporation, county, or any association which has a perpetual existence;
- (4) To any person unless he files with the director a bond as required by section 441-22;
- (5) To any person failing to establish pre-need trusts and perpetual care funds as required by this chapter.”

SECTION 4. Section 441-22, Hawaii Revised Statutes, is amended to read as follows:

**“§441-22 Bond.** [Each mortuary, cemetery, or pre-need funeral authority licensed hereunder, except as otherwise provided in section 441-22.1, shall file and maintain with the director a bond (1) in the penal sum of \$50,000 for each new license, and for the renewal of a license for a mortuary, cemetery, or pre-need funeral authority whose gross income as a mortuary, cemetery, or pre-need funeral authority for the taxable year preceding the year of renewal totalled \$50,000 or more, and (2) in the penal sum of \$5,000 for any other cemetery authority, all of such bonds to be issued by a surety company authorized to do business in the State, and running to the State. The bond shall be conditioned that the mortuary, cemetery, or pre-need funeral authority will faithfully, promptly, and truly account and pay over to all persons to or for whom it may sell, lease, or otherwise deal in cemetery property pre-need interment, at-need funeral services, or pre-need funeral services all sums of money that may properly be due them. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of the bond may sue the surety for the recovery of any damages sustained by such person. The liability of the surety shall not exceed \$50,000 or \$5,000 as the case may be, for each licensee. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or canceled by the surety. Termination or cancellation shall not be effective, unless notice thereof is delivered by the surety to the director at least sixty days prior to the date of termination or cancellation. The director shall forthwith give notice thereof to the mortuary, cemetery, or pre-need funeral authority affected by the termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed to the licensees at the addresses shown on the records of the department. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the director. The form of the bond shall be approved by the director.] (a) Except as provided in section 441-22.1, mortuary, cemetery, and pre-need funeral authorities shall file

and maintain with the director a bond in the following amount:

- (1) Each mortuary holding more than \$5,000 in pre-need funeral funds shall post a bond in the penal sum of \$50,000; and
- (2) Each pre-need funeral authority or cemetery authority which engages in pre-need sales shall post a bond in the penal sum of \$50,000 for each new license and for the renewal of a license; provided that a cemetery authority whose gross income for the taxable year preceding the year of renewal totaled less than \$50,000 shall only be required to post a bond in the penal sum of \$5,000.

(b) All bonds required by this section shall be issued by a surety company authorized to do business in the State, and shall run to the State. The bond shall be conditioned that the mortuary, cemetery, or funeral authority will faithfully, promptly, and truly account and pay over to all persons to or for whom it may sell, lease, or otherwise deal in cemetery property, pre-need interment, at-need funeral services, or pre-need funeral services all sums of money that may properly be due them.

(c) In addition to any other remedy, any person sustaining any damage resulting from any breach of the conditions of the bond may sue the surety for the recovery of any damages sustained by the person. The liability of the surety shall not exceed the amount of the bond issued to the establishment for which the bond was issued. The bond shall be continuous in full force and effect, and shall run concurrently:

- (1) With the license period and for any renewals thereof; or
- (2) With the period established by the director pursuant to rules;

as the case may be, unless terminated or canceled by the surety.

(d) Termination or cancellation shall not be effective, unless notice thereof is delivered by the surety to the director at least sixty days prior to the date of termination or cancellation. The director shall forthwith give notice thereof to the mortuary, cemetery, or pre-need funeral authority affected by the termination or cancellation. The notice shall be by registered or certified mail, with request for return receipt, and shall be addressed to the establishment at the addresses shown on the records of the department. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the director. The form of the bond shall be approved by the director."

SECTION 5. Section 441-22.2, Hawaii Revised Statutes, is amended to read as follows:

**"[[§441-22.2]] Pre-need trusts required. (a)** Every cemetery or pre-need funeral authority shall maintain one or more trusts. All payments received after the recovery of acquisition costs, which shall be the lesser of thirty per cent of the contract price or the difference between the contract price and the cost of the pre-need interment or pre-need funeral services contracted to be provided, shall be deposited in such trusts within thirty days of receipt.

The administration of the trusts provided for in this section shall be as provided for perpetual care funds under sections 441-37, 441-40, 441-41, 441-42, 441-43, and 441-44.

The principal amount deposited shall not be diminished or withdrawn except in payment of the pre-need interment or pre-need funeral services contracted for and provided to the deceased purchaser or his designee or for the contractual refund to the purchaser.

(b) Based on the findings of the annual audit and the annual actuarial study, the trust administrator shall determine whether the income from the trusts should be added to the corpus.

(c) In addition to the audited financial statements required by section 441- , every cemetery authority operating a perpetual care cemetery and any pre-need funeral authority or mortuary authority which engages in pre-need sales or holds moneys in trust for future funeral services shall conduct an annual independent actuarial study of the pre-need trust funds. The findings of the study conducted during each calendar year shall be submitted to the director during the month of December. The findings of the study shall include a statement by the actuary conducting the study as to whether or not, in the actuary's professional opinion, the pre-need funding requirements imposed by this section are adequate for the protection of the consuming public. The director may take such appropriate action as may be indicated by the actuarial reports submitted."

SECTION 6. Section 441-23, Hawaii Revised Statutes, is amended to read as follows:

**"§441-23 Revocation, suspension, and renewal of authority licenses.** The director may revoke any authority license, or suspend the right of the licensee to use the license, or refuse to renew any such license for any of the following causes:

- (1) Any dishonest or fraudulent act as a [mortuary,] cemetery[,] or pre-need funeral authority which causes substantial damage to another;
- (2) Making repeated misrepresentations or false promises through advertising or otherwise;
- (3) Wilful violation of this chapter or the rules [and regulations promulgated] adopted pursuant thereto;
- (4) Commingling the money or other property of others with his own;
- (5) Adjudicated insane or incompetent;
- (6) Selling or offering to sell any cemetery property, pre-need interment, funeral services, or pre-need funeral services based on speculation or promises of profit from resale.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years."

SECTION 7. Section 441-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** The fee for a [mortuary,] cemetery[,] or pre-need funeral authority original license and reinstatement of a suspended license shall be \$200 and biennial renewal fee shall be \$400 except as otherwise provided in section 441-22.1.

The biennial renewal fee shall be paid to the department on or before December 31 of each odd-numbered year. Failure, neglect, or refusal of any duly licensed [mortuary,] cemetery[,] or pre-need funeral authority to pay the biennial renewal fee shall constitute a forfeiture of his license. Any such license may be



restored upon written application therefor within one year of such date and the payment of the delinquent fees plus an amount equal to ten per cent thereof.”

SECTION 8. Section 441-41, Hawaii Revised Statutes, is amended to read as follows:

“**§441-41 Investment of perpetual care funds.** The investment of perpetual care funds shall be governed by the standards prescribed in section 406-22 for trust companies acting as fiduciaries. [The instrument creating the fund may reserve to the cemetery authority the right to approve investments.] The administrator may, from time to time, reserve from investment and keep in the form of cash balances (which cash may be held on deposit with any institutional depository, without interest) such portion of the fund, whether principal or income, as the administrator deems advisable.”

SECTION 9. Section 441-19.5, Hawaii Revised Statutes, is repealed.

SECTION 10. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 12. This Act shall take effect upon its approval.

(Approved May 13, 1982.)

#### Notes

1. The text has been edited pursuant to HRS §23G-16.5.

## ACT 67

S.B. NO. 2180-82

A Bill for an Act Relating to Medical Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

“**§346-29 Applications for public assistance; manner, form, conditions.** Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant’s behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after his discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and

resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.

- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total in liquid assets equal to the maximum possible financial assistance by family size multiplied by a factor of 1.5 and rounded to the nearest \$5 in determining the needs of persons for financial assistance; provided that this provisions shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the eligibility requirements under the federal supplemental security income program.
- (4) Shall disregard a total of at least \$1,500 in liquid assets in determining the needs of a single person for medical assistance only.
- (5) Shall disregard a total of at least \$2,250 in liquid assets in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining "liquid assets"[;] and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as liquid assets."

SECTION 2. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 346-29, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 13, 1982.)

A Bill for an Act Relating to the Department of the Attorney General.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 28-8, Hawaii Revised Statutes, is amended to read as

follows:

**“§28-8 [Assistant] First deputy attorney general; other deputies.** The attorney general shall appoint, and at his pleasure remove, [an assistant] a first deputy attorney general and such other deputies and law clerks as the exigencies of the public service may require, and shall be responsible for all of the acts of the [assistant] first deputy attorney general, other deputies,<sup>1</sup> and law clerks. They shall act under the direction of the attorney general and shall perform such duties as the attorney general may require. The [assistant] first deputy attorney general and other deputies, subject to such directions, may perform or exercise any and all duties or powers by law required of or conferred upon the attorney general. The attorney general may appoint and at his pleasure remove special deputies to perform such duties and exercise such powers as the attorney general may specify in their several appointments. The [assistant] first deputy attorney general and all of the other deputies shall take the oath required of other public officers.”

SECTION 2. Section 28-10, Hawaii Revised Statutes, is amended to read as follows:

**“§28-10 Prohibition on private practice of law by the attorney general, [assistant,] first deputy, and other<sup>2</sup> deputies.** The attorney general, his [assistant,] first deputy, and other deputies shall devote their entire time and attention to the duties of their respective offices. They shall not engage in the private practice of law, nor accept any fees or emoluments other than their official salaries for any legal services. This section shall not apply to any special deputy employed on a part-time basis for a limited period.”

SECTION 3. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee

- thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
  - (6) Positions filled by popular vote;
  - (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
  - (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
  - (9) One secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the intermediate appellate court and of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
  - (10) [Assistant] First deputy and deputy attorneys general and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
  - (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
  - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of<sup>3</sup> governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1982.)

Notes

- 1. Should not be underscored.
- 2. Should be underscored.
- 3. Prior to amendment, "the" followed "of".

ACT 69

S.B. NO. 2228-82

A Bill for an Act Relating to Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to redesignate the Public Utilities Division as the Division of Consumer Advocacy.

SECTION 2. Section 269-52, Hawaii Revised Statutes, is amended to read:

**"[[§ 269-52]] [Public utilities division] Division of consumer advocacy; personnel. There shall be a [public utilities] division of consumer advocacy within the department of regulatory agencies to provide administrative support to the director of regulatory agencies acting in [his] the capacity as consumer advocate. The director may employ and at pleasure dismiss an executive administrator, who shall be exempt from chapters 76 and 77, and may define [his] the executive administrator's powers and duties and fix [his] the compensation. The director may employ such engineers, accountants, investigators, clerks, stenographers, and other assistants as may be necessary for the performance of the consumer advocate's functions, subject to chapters 76 and 77."**

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 13, 1982.)

ACT 70

S.B. NO. 2245-82

A Bill for an Act Relating to Reciprocal Enforcement of Support.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 576-1, Hawaii Revised Statutes, is amended to read as follows:

**"§576-1 Definitions.** As used in this chapter unless the context requires otherwise:

- (1) "State" includes any state, territory, or possession of the United States [and], the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law has been enacted.
- (2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

- (3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.
- (4) "Court" means any circuit court of this State and when the context requires, means the court of any state as defined in a substantially similar reciprocal law.
- (5) "Law" includes both common and statute law.
- (6) "Duty of support" includes any duty of support imposed or impossible by law, or by any court order, decree, or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise[.] and includes the duty to pay arrearages of support past due and unpaid.
- (7) "Obligor" means any person owing a duty of support[.] or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.
- (8) "Obligee" means any person to whom a duty of support is owed[.] or a person, including a state or political subdivision, that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.
- (9) "Register" means to file in the registry of foreign support orders.
- (10) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state."

SECTION 2. Section 576-23, Hawaii Revised Statutes, is amended to read as follows:

**"§576-23 How duties of support are enforced[.]; immunities unavailable; jurisdiction.** All duties of support, including the duty to pay arrearages, are enforceable by action commenced by complaint irrespective of relationship between the obligor and obligee. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available. Jurisdiction of all proceedings hereunder shall be vested in the family court of the circuit in which the plaintiff has resided for sixty days next preceding his or her complaint."

SECTION 3. Section 576-24, Hawaii Revised Statutes, is amended to read as follows:

**"§576-24 Contents of complaint for support. (a)** The complaint shall be verified and shall state the name and, so far as known to the plaintiff, the addresses and circumstances of the defendant, his dependents for whom support is sought and all other pertinent information. The plaintiff may include in or attach to the complaint any information which may help in locating or identifying the defendant including, but without limitation by enumeration, a photograph of the defendant, a description of any distinguishing marks [of his person], other names and aliases which [he] the defendant has been or is known, the name of [his] the defendant's employer, [his] the defendant's fingerprints or social security number.

**(b)** The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, judicial separation, annulment,

dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.”

SECTION 4. Chapter 576, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“§576- **Rules of evidence.** In any hearing for the civil enforcement of this chapter the court is governed by the rules of evidence applicable in a civil action in the family court. If the action is based on a support order issued by another court a certified copy of the order may be received as evidence of the duty of support. The determination or enforcement of duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

§576- **Paternity.** If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both the child’s alleged father and the child’s mother are present at the hearing or the proof required in the case indicates that the presence of either or both of them is not necessary, the court may adjudicate the paternity issue. Otherwise, the court may adjourn the hearing until the paternity issue has been adjudicated.

§576- **Proceedings not to be stayed.** A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, judicial separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard the court must take into account in placing its support order the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

§576- **Registration of foreign support orders.** If the duty of support is based on a foreign support order, the obligee has the additional remedies provided as follows:

(a) The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

(b) The clerk of the court shall maintain a registry of foreign support orders in which foreign support orders shall be filed.

(c) If this State is acting either as a rendering or a registering state, the county attorney or corporation counsel shall represent the obligee in proceedings under this part. If such attorney neglects or refuses to represent the obligee, the attorney general may undertake the representation.

§576- **Registration procedure for foreign support order; notice.** (a) An obligee seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support act of



the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this chapter.

(b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. The clerk shall also docket the case and notify the county attorney or corporation counsel of such action. The county attorney or corporation counsel shall proceed diligently to enforce the order.

**§576- Effect of registration of foreign support orders; enforcement procedure.** (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this State and may be enforced and satisfied in like manner.

(b) The obligor has twenty days after the mailing of the notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available as defenses in an action to enforce a foreign money judgment. If it is shown to the court that an appeal from the order is pending, or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support order as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this State may be stayed, the court shall stay enforcement of the order for an appropriate period, if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 13, 1982.)

ACT 71

H.B. NO. 2158-82

A Bill for an Act Relating to General Obligation Bonds of the State of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Notwithstanding the interest rate limitation contained in sec-

tion 39-5, Hawaii Revised Statutes, and Act 18, First Special Session Laws of Hawaii 1981, bonds issued after the effect date of this Act but prior to June 30, 1983 under part 1 of chapter 39, Hawaii Revised Statutes, may bear interest, payable annually or semi-annually, at a rate or rates not exceeding fourteen per cent a year.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1982.)

ACT 72

H.B. NO. 2400-82

A Bill for an Act Relating to Inheritance Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 236-5, Hawaii Revised Statutes, is amended to read as follows:

“§236-5 Rates; exempt amount. (a) When the beneficial interest in any property or income therefrom passes as above provided to or for the use of decedent’s surviving spouse, the rate of tax and the tax thereon shall be at the following percentage rate of the market value of the property, received by such person in excess of [\$100,000] \$300,000 viz.:

**SURVIVING SPOUSE**

(A)	(B)	(C)	(D)
Taxable Value Equal to Or More Than —	But Taxable Value Less Than —	Tax on Amount In Col. (A)	Plus Rate of Tax on Excess Over Amount In Col. (A)
\$ 0	\$ 25,000	\$ 0	2%
25,000	100,000	500	3%
100,000	200,000	2,750	5%
200,000	....	7,750	7%

(b) When the beneficial interest in any property or income therefrom passes as above provided to or for the use of decedent’s father, mother, child, grandchild, or any child adopted as such in conformity with the laws of the State, the rate of the tax and the tax thereon shall be at the following percentage rate of the market value of the property, received by each person in excess of [\$50,000.] \$150,000, viz.:

**DIRECT LINE BENEFICIARY**

(A)	(B)	(C)	(D)
Taxable Value Equal to Or More Than —	But Taxable Value Less Than —	Tax on Amount In Col. (A)	Plus Rate of Tax on Excess Over Amount In Col. (A)
\$ 0	\$ 25,000	\$ 0	3%
25,000	75,000	750	5%
75,000	150,000	3,250	7%
150,000	....	8,500	8%

(c) In all other cases<sup>1</sup> the rate of tax on the market value of the property and the tax thereon in excess of \$5,000 shall be as follows, viz.:

**ALL OTHER BENEFICIARIES**

(A)	(B)	(C)	(D)
Taxable Value Equal to Or More Than —	But Taxable Value Less Than —	Tax on Amount In Col. (A)	Plus Rate of Tax on Excess Over Amount In Col. (A)
\$ 0	\$ 20,000	\$ 0	3%
20,000	70,000	600	6%
70,000	145,000	3,600	8%
145,000	....	9,600	10%

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act, upon its approval, shall apply only to property or interests subject to an inheritance tax under chapter 236, Hawaii Revised Statutes, that passes from a person who dies after December 31, 1981.

(Approved May 14, 1982.)

**Notes**

1. Prior to amendment, a comma appeared here.

A Bill for an Act Relating to the Department of Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 141-1, Hawaii Revised Statutes, is amended to read: “§141-1 **Duties in general.** The department of agriculture shall:

- (1) Information and statistics. Gather, compile, and tabulate, from time to time, information and statistics concerning:
  - (A) Entomology and plant pathology. Insects, scales, blights, and diseases injurious, or liable to become injurious, to trees, plants, or other vegetation, the ways and means of exterminating such pests and diseases as are already in the State and preventing the introduction of those not yet here;
  - (B) General agriculture. Fruit, fibres, and useful or ornamental plants and their introduction, development,<sup>1</sup> and care, and concerning the manufacture or exportation of the same with a view to introducing, establishing,<sup>1</sup> and fostering new and valuable plants and industries.
- (2) Cooperation with other organizations. In all respects endeavor, as far as possible, to encourage and work in harmony and cooperate with the

federal Agricultural Experiment Station established in the State and all private persons or organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to [151,] 149A, and to avoid, as far as practicable, duplicating the work of such persons or organizations;

- (3) Agreements with other organizations. Upon approval of the governor, enter into contracts, cooperative agreements, or other transactions with any person, agency, or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department;
- [(3)] (4) Library. Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to [151] 149A and make the same available for public information and consultation;
- [(4)] (5) Buildings and apparatus. Provide such buildings, grounds, apparatus, and appurtenances as may be necessary or proper for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to [151] 149A; and for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and also any other apparatus or appurtenances necessary or proper for the purposes of carrying chapters 141, 142, and 144 to [151] 149A into execution;
- [(5)] (6) Further legislation. Formulate and from time to time recommend to the governor and legislature such additional legislation as it deems necessary or desirable for the better securing of the objects of chapters 141, 142, and 144 to [151] 149A;
- [(6)] (7) Annual reports. Make and publish, at the end of each year, a report of the expenditures and proceedings of the department and of the results achieved by the department, together with such other matters as are germane to the subject matter of chapters 141, 142, and 144 to [151] 149A, and which the department may deem proper."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

Notes

- 1. The comma should be underscored.

## ACT 74

S.B. NO. 2366-82

A Bill for an Act Relating to Campaign Spending Report.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-213, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Deficit. In the event of a deficit over \$250, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a). The first report shall be due no later than 4:30 p.m. on the [fifth] thirtieth day after the last day of the election year.

(d) Surplus. In the event of a surplus over \$250, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until he becomes a candidate again, or in the case of a party or committee until they participate in an election again, file supplemental reports detailing all items prescribed in subsection (a).

The first report shall be due not later than 4:30 p.m. on the [fifth] thirtieth day after the last day of the election year.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

## ACT 75

S.B. NO. 2382-82

A Bill for an Act Relating to Dentistry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 448, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§448- Lead apron during X-ray; required.** (a) A dentist shall cover a patient’s torso from the neck to the pelvis including the genital area with a lead apron while conducting an X-ray procedure on the patient.

(b) The board of dental examiners, by rule adopted pursuant to chapter 91, shall establish minimum specifications for the lead apron; provided that the lead apron shall protect the patient’s body from unnecessary exposure to X-rays yet not unduly discomfort the patient.

(c) Any violation of this section shall be considered an improper conduct in the practice of dentistry for the purpose of section 448-17.”

SECTION 2. New statutory material is underscored.

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

(Approved May 14, 1982.)

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-3, Hawaii Revised Statutes, is amended to read as follows:

**“§281-3 Illegal manufacture, importation, or sale of liquor.** It shall be unlawful for any person not having a valid license to manufacture, sell, offer, expose, or keep for sale any liquor except as otherwise provided in this chapter; provided that the head of any family may produce for family use and not for sale an amount of wine not exceeding two hundred gallons a year, and an amount of beer not exceeding one hundred gallons a year.

It shall also be unlawful for any person, not having a valid wholesale license or a valid manufacturer's (including rectifier's) license, to import any liquor from without the State, except as otherwise provided in this chapter. Liquor imported into this State shall come to rest at the warehouse of the wholesaler importing the liquor and shall be unloaded into such warehouse before further sale by such wholesaler.

It shall also be unlawful for any person to label, designate, or sell any liquor using the word “Hawaii”, “Hawaiian”, [or] “Aloha State”, “50th State”, “Kauai”, “Maui”, “Oahu”, or Honolulu” unless such liquor is wholly or partially manufactured in the State.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by him.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

A Bill for an Act Relating to Child Abuse and Neglect.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§350-1 Definitions.** For the purposes of this chapter, unless the context specifically indicates otherwise:

- (1) “Child abuse and neglect” means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age by a parent, legal guardian, or person responsible for that child's care under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened with harm.

- (2) "Department" means the department of social services and housing.
- (3) "Professional" means a person engaged in a specific occupation who examines, treats, attends, or otherwise provides specialized services to children.
- (4) "Report" means the oral or written disclosure, to the department of social services and housing, that a minor is believed to have been harmed or threatened with harm by a parent, legal guardian, or person responsible for that child's care."

SECTION 2. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

**"§350-[1]1.1 Reports.** [(a) Any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, police officer, law enforcement officer, medical examiner, or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect by parents or those responsible for that child's care shall promptly report the matter orally to the department of social services and housing; provided that when examination, attendance, or treatment with respect to the minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, the staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with this chapter.

Abuse or neglect of a minor for the purposes of this chapter means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened thereby.

The initial oral report shall be followed as soon as possible by a report in writing; provided that where a police department is the initiating agency a written report shall not be required to be filed with the department of social services and housing unless the police department has declined to take further action and the department of social services and housing informs the police department that it intends to pursue the matter of the orally reported incident of child abuse or neglect. All written reports shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the department of social services and housing.

(b) All reports concerning child abuse and neglect, as well as all records of such reports are confidential and any unauthorized disclosure of a report or record of a report is a misdemeanor. The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to provide for the confidentiality of reports and records of reports and for the authorized disclosure of reports and records.

(c) The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to further define the specific forms of child abuse and neglect enumerated by subsection (a) for use in implementing this chapter; provided that rules adopted under this section shall be limited to such definitions.]

(a) The following persons who, in the performance of their professional or official duties, know or have reason to believe that a child has been abused or neglected or is threatened with abuse or neglect shall promptly report the matter orally to the department of social services and housing or to the police department:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, attends, treats, or provides other professional or specialized services to a minor, including but not limited to physicians, psychologists, dentists, nurses, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private school;
- (3) Employees or officers of any public or private agency or institution providing social, medical, hospital, or mental health services, including financial assistance;
- (4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, correctional institutions, and parole or probation offices;
- (5) Employees or officers of any licensed day care center, foster care home, group child care center, or similar institution;
- (6) Medical examiners or coroners.

(b) Whenever a person designated in this section is a member of the staff of any public or private school, agency, or institution, that staff member shall immediately notify the person in charge, or a designated delegate, who shall promptly report, or cause reports to be made, in accordance with this chapter. Nothing in this section is intended to require more than one report from any school, agency, or institution.

(c) This section does not prohibit any of the persons enumerated in subsection (a) from reporting incidents which such persons have reason to believe involve abuse or neglect which come to their attention in any private or nonprofessional capacity.

(d) Any other person who has reason to believe that a minor has been abused or neglected or is threatened with abuse or neglect may report the matter orally to the department.

(e) The initial oral report shall be followed as soon thereafter as possible by a report in writing; provided that where a police department is the initiating agency a written report shall not be required to be filed with the department of social services and housing unless the police department had declined to take further action and the department of social services and housing informs the police department that it intends to pursue the matter of the orally reported incident of child abuse or neglect. All written reports shall contain the name and address of the minor and the minor's parents or other persons responsible for the minor's care, if known, the minor's age, the nature and extent of the minor's injuries and any other information that the reporter believes might be helpful in establishing the cause of the injuries.



(f) The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to further define or clarify the specific forms of child abuse and neglect enumerated in section 350-1 for use in implementing this chapter; provided that rules adopted under this subsection shall be limited to such further or clarifying definitions.

SECTION 3. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§350- Confidentiality of reports. All reports concerning child abuse and neglect made pursuant to this chapter, as well as all records of such reports, are confidential and any unauthorized disclosure of a report or record of a report is a misdemeanor. The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to provide for the confidentiality of reports and records and for the authorized disclosure of reports and records.”

SECTION 4. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§350- Nonreporting; penalty. Any person subject to section 350-1.1(a) who knowingly fails to report an incident which the person has reason to believe involves child abuse or neglect as required by this chapter or wilfully prevents another person from reporting such an incident pursuant to this chapter shall be guilty of a petty misdemeanor.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

## ACT 78

S.B. NO. 2477-82

A Bill for an Act Relating to Motor Vehicle Repairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 437B-1, Hawaii Revised Statutes, is amended by amending the definition of “Repair of motor vehicles” to read as follows:

“(10) “Repair of motor vehicles” means all maintenance of, and modifications and repairs to motor vehicles, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the board by rule determines may be performed by persons without the skills and knowledge required of motor vehicle mechanics and apprentices. No service shall be designated as minor, for purposes of this section, if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.”

SECTION 2. New statutory material is underscored.

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

(Approved May 14, 1982.)

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-102, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-102 Announcement, publication.** Beginning fifteen calendar days prior to the date any developer notifies the commission of the developer’s intention to sell a project which is subject to this chapter, the developer shall cause to be published in the classified section of at least one newspaper published daily in the State and having a general circulation in the county in which the project is to be located, not less than twice in each of two successive weeks, an announcement containing at least the following information:

- (1) The location of the project;
- (2) A fair and reasonable estimate of:
  - (A) The total number of apartments to be included in the project;
  - (B) The number of apartments designated as residential units;
  - (C) The number of floors in the project;
  - (D) The number of bedrooms and square feet of each residential unit; [and]
  - (E) The price and amount of monthly maintenance fees for each residential unit; and
  - (F) The amount of lease rent for each residential unit and the applicable time periods.
- (3) The statement that the apartments shall be offered for sale upon the issuance of the first public report by the commission, and the approximate date of the issuance;
- (4) A statement of the intended use, such as, but not limited to, commercial, timesharing, or vacation rental, of any apartment in the project other than a residential unit designated for use by an owner-occupant;
- (5) The statement that fifty per cent of the residential units shall initially be offered for a ten-day period to only prospective owner-occupants, and a designation of such residential units;
- (6) The name and address of a real estate broker, which shall be designated by the developer, who any interested individual may contact to be placed on a reservation list, and to obtain further information on the project; and
- (7) A statement that a public report has not been issued for the project, and that the commission has not yet determined whether the developer has adequately disclosed all material facts as required by law.

Proof of publication of the announcement, and a copy thereof, shall be filed with the commission as a condition of issuance of any public report. The developer shall also provide a copy of the announcement to each prospective purchaser.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

ACT 80

S.B. NO. 2517-82

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of health with the approval of the governor, may prescribe such rules [or regulations] as it deems necessary for the public health or safety respecting:

- (1) The occupations or practices of midwives, laboratory directors, laboratory technicians, physical therapists, tattoo artists, and sanitarians[, and itinerant vendors of medicines or drugs or devices];
- (2) The health, education, training, experience, habits, qualifications, or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) The health, habits, character, practices, standards, or conduct of persons holding such certificates or permits; or
- (4) The grounds or causes for revoking or suspending such certificates or permits.

Such rules [or regulations] shall have the force and effect of law.”

SECTION 2. Section 321-14, Hawaii Revised Statutes, is amended to read as follows:

“**§321-14 License to practice certain occupations.** It shall be unlawful for any person to practice any of the [following listed] occupations specified in section 321-13(a)(1) without a license so to do; any person wishing to obtain a license to engage in any of [the listed] the specified occupations shall make application to the department of health, in accordance with such rules [or regulations] as shall be prescribed by the department under section 321-13, and any such application shall be accompanied by an examination fee for such license [in accordance with the following schedule:

- (1) Physical therapist .....\$10
- (2) Midwife ..... 10
- (3) Tattoo artist ..... 50
- (4) Laboratory director ..... 25
- (5) Laboratory technician ..... 10
- (6) Sanitarian ..... 10
- (7) Itinerant vendor of medicines or drugs or devices ..... 25

Where examination materials are purchased from a professional organization or examination service, the department may charge the applicant for the cost of such materials, such charges to be over and above the fees listed above].”

SECTION 3. Section 321-15, Hawaii Revised Statutes, is amended to read as follows:

“§321-15 Annual registration; fees, failure to register. Every person holding a license to practice any occupation [listed] specified in section [321-14] 321-13(a)(1) shall reregister with the department of health, in accordance with the rules [and regulations] of the department, on or before January 31 of each year and shall pay a reregistration fee [as provided for in the following schedule:

- (1) Physical therapist ..... \$2
- (2) Midwife ..... 2
- (3) Tattoo artist ..... 5
- (4) Laboratory director ..... 5
- (5) Laboratory technician ..... 2
- (6) Sanitarian ..... 2
- (7) Itinerant vendor of medicines or drugs or devices ..... 5].

The failure, neglect, or refusal of any person holding such license to reregister or to pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of his license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and [a sum equal to the fee for the original license. If the delinquency continues over a period of more than one year, the person shall submit to and successfully pass an examination to be conducted by the department before the license is restored.] an additional late reregistration fee that may be established by the director of health.”

SECTION 4. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§321- Establishment of fees. The department of health, by rules adopted pursuant to chapter 91, may establish reasonable fees for the issuance or renewal of licenses, permits, variances, and various certificates required by law or by the department’s rules, and such fees may include the cost of related examinations, inspections, investigations, and reviews.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval, except that sections 1, 2, and 3 shall take effect on January 1, 1983.

(Approved May 14, 1982.)

A Bill for an Act Relating to Appeals by the State in Criminal Cases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 641-13, Hawaii Revised Statutes, is amended to read as follows:

“§641-13 By State in criminal cases. An appeal may be taken by and on behalf of the State from the district or circuit courts to the supreme court, subject to chapter 602, in all criminal cases, in the following instances:

- (1) From an order or judgment quashing, setting aside, or sustaining a motion to dismiss, any indictment or information or any count thereof;
- (2) From an order or judgment, sustaining a special plea in bar, or dismissing the case where the defendant has not been put in jeopardy;
- (3) From an order granting a new trial;
- (4) From an order arresting judgment;
- (5) From a ruling on a question of law adverse to the State where the defendant was convicted and appeals from the judgment;
- (6) From the sentence, on the ground that it is illegal;
- (7) From a pre-trial order granting a motion for the suppression of evidence, including a confession or admission, or the return of property in which case the intermediate appellate court or the supreme court, as the case may be, shall give priority to such an appeal and the order shall be stayed pending the outcome of the appeal;
- (8) From an order denying a request by the State for protective order for nondisclosure of witness for their personal safety under Rule 16(e)(4) of the Hawaii Rules of Penal Procedure, in which case the intermediate appellate court or the supreme court, as the case may be, shall give priority to such appeal and the order shall be stayed pending outcome of such appeal;
- (9) From a judgment of acquittal following a jury verdict of guilty.

[provided that no appeal shall be taken by or allowed the State in any case where there has been a verdict in favor of the defendant.]”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

## ACT 82

S.B. NO. 2646-82

A Bill for an Act Relating to Patients' Compensation Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 671-36, Hawaii Revised Statutes, is amended to read:

“[[ ]§ 671-36[ ] Participation in fund; basic insurance coverage. No health care provider shall be permitted to participate in the patients' compensation fund unless the health care provider gives evidence to the insurance commissioner of medical malpractice insurance coverage in [the following] amounts[: ] to be established by the insurance commissioner by rules adopted in accordance with chapter 91.

- (1) For individual physicians or surgeons, \$100,000 per claim and \$300,000 per policy period aggregate;
  - (2) For hospitals and other health care providers, \$100,000 per claim and \$1,000,000 per policy period aggregate;
- provided that in] In lieu of the required insurance [provided for above], a health

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care provider may participate in the fund upon presenting evidence to the insurance commissioner of a surety bond, proof of qualifications as a self-insurer, or other securities affording coverage for medical torts substantially equivalent to that afforded under a medical malpractice insurance in the required amounts [provided for above, as applicable,] as approved by the insurance commissioner under rules adopted by the insurance commissioner.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 14, 1982.)

## ACT 83

S.B. NO. 2756-82

A Bill for an Act Relating to the 1984 Hawaii Statehood Silver Jubilee.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Notwithstanding section 8-1, Hawaii Revised Statutes, for the year 1984 only, Tuesday, August 21, 1984, which is the 25th anniversary of the admission of Hawaii into the Union as a state of the United States of America, shall be a state holiday in lieu of the third Friday in August, 1984, designated as the Admission Day holiday in said section 8-1.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1982.)

## ACT 84

S.B. NO. 2869-82

A Bill for an Act Relating to the Support of Children.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 577-7, Hawaii Revised Statutes, is amended to read as follows:

“§577-7 Parents’ control and duties. (a) Parents or, in case they are both deceased, guardians, legally appointed, shall have control over the conduct and education of their minor children. They shall have the right, at all times, to recover the physical custody of their children by habeas corpus. All parents and guardians shall provide, to the best of their abilities, for the discipline, support, and education of their children.

(b) To the extent that the minor child has a beneficial interest in the income or principal of any trust which is applied for such purposes, parents or guardians shall not be required to pay the costs of registration, tuition, books, room and board, and other expenses incurred in connection with the attendance of a minor child at any private grammar, secondary, industrial arts or trade school, or at any college or university, whether or not the college or university is a private institution or is maintained by a state or any subdivision thereof. The power of the family court

under sections 580-47 and 580-74 to compel the parties to a divorce or separation to provide for the education of a minor or an adult child shall not be limited by any provision of this subsection."

SECTION 2. New statutory material is underscored.

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

(Approved May 14, 1982.)

## ACT 85

S.B. NO. 2947-82

A Bill for an Act Relating to the Filipino 75th Anniversary Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 1, Act 181, Session Laws of Hawaii, Regular Session 1977, is amended to read as follows:

**"SECTION 1. Creation of 75th Anniversary Commission.** There is established a commission to be known as the 75th Anniversary Commission which shall have charge of all arrangements for the commemoration of the 75th anniversary of the coming of the Filipinos to Hawaii.

The commission shall be placed within the [progressive neighborhood program,] office of the governor. It shall [not continue beyond] exist until December 31, [1981.] 1983."

SECTION 2. Section 5, Act 181, Session Laws of Hawaii, Regular Session 1977, is amended to read as follows:

**"SECTION 5. Funds and Donations.** The commission may seek grants from public and private sources and may accept donations to finance the projects, programs and activities of the 75th anniversary celebration. All moneys received by the commission in the form of donations, grants, or revenues from activities of the commission such as the sale of publications related to the purposes of this Act shall be deposited with the director of budget and finance and shall be appropriated to the commission. Disbursement of such moneys shall be by State warrants issued in accordance with applicable laws and regulations and shall be based on vouchers signed by the chairman of the commission.

Any moneys received by the commission which are unexpended or unencumbered as of the close of business on December 31, 1983, shall become a realization of the state general fund.

All property acquired by the commission shall be deposited for preservation in the state library system, museums and public archives or shall otherwise be disposed of as directed by the commission."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 14, 1982.)

## A Bill for an Act Relating to the Removal of Sand.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [It shall be unlawful to remove sand, coral, rocks, soil, or other beach compositions for any purpose, except for reasonable domestic, non-commercial use, within the shoreline area or within 1,000 feet seaward of it or in ocean water of 30 or less feet in depth, except that any sand mining operation which has been legally in operation for a period of at least two years immediately prior to June 22, 1970, may be continued for a period not to extend beyond July 1, 1975. However, if during the period prior to July 1, 1975, the sand mining operation is substantially increased, it shall be unlawful to further continue such mining operation. This prohibition shall not apply to the commercial mining of sand or other minerals, or taking of coral or rock in the territorial sea when such mining or taking is located 1,000 or more feet from the shoreline or in ocean water of 30 or more feet in depth and has the written permission of all governmental agencies having jurisdiction thereof. Anything to the contrary notwithstanding, the prohibition shall not apply to sand mining for experimental purposes to be conducted by the Department of Ocean Engineering, University of Hawaii, in the offshore waters, one-half mile north of Keauhou Bay, provided, however, that such sand mining for experimental purposes shall not commence until written permission is received from all governmental agencies having jurisdiction thereof; provided further that a federal environmental impact statement be prepared and approval received therefor; and provided further that said sand mining for experimental purposes shall be completed on or before April 30, 1977.] The mining or taking of sand, coral, rocks, soil or other beach or marine deposits from the shoreline area, or within 1,000 feet seaward from the shoreline, or in water of 30 feet or less in depth in the territorial sea, is prohibited with the following exceptions:

- (1) The taking from a public beach of such materials for reasonable, personal, noncommercial use;
- (2) Where the mining or taking of sand is for the replenishment of sand on public beaches at Hilo Bay, Waikiki, Ala Moana and Kailua beaches by the State or county; provided that for the purpose of this paragraph an environmental impact statement for the proposed project shall be accepted pursuant to chapter 343, a finding shall be made by the proposing state or county agency that the proposed project is in the public interest and will not have any adverse significant social, economic or environmental impact, and both a public informational meeting and public hearing shall be held by the proposing state or county agency in the affected community. The public hearing shall be preceded by public notice of the proposed project not less than 30 days before the hearing and published on three separate days in a newspaper of general circulation in the state or county affected by the proposed project. The proposing state or county agency shall also notify in writing the owners



or lessees of adjoining, overlapping or affected property of the proposed project.

- (3) The clearing of sand from existing drainage pipes and canals and from the mouths of streams, provided that the sand shall be placed on adjacent beaches unless such placement would result in significant turbidity.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 15, 1982.)

**ACT 87**

S.B. NO. 2144-82

A Bill for an Act Relating to Drugs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 328-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A drug intended for use by man which (1) is a habit-forming drug to which section 328-15(4) applies; or (2) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or (3) is limited by an approved application under section 505 of the Federal Act or section 328-17 to use under professional supervision of a practitioner licensed by law to administer the drug, shall be dispensed only (A) upon a written prescription of a practitioner licensed by law to administer the drug, or (B) upon an oral prescription of the practitioner, provided[,] the seller promptly records in his books the oral prescription in full, the kind, quantity of the drug, and directions for use, the date the oral prescription is received, the name of the seller, the name and code designation of the prescriber, and the name and address of the person for whom the drug is prescribed or the name of the owner of the animal for which the drug is prescribed, the department of health assigning such code designation to such subscriber, and such books being subject at all times to the inspection of the department or its agents, or (C) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, and (D) its label bears the name and place of business of the seller, the serial number and date of the prescription, the name of the practitioner, the name, strength, and quantity issued of the drug, the date the potency of the drug expires, if the date is available from the manufacturer or principal labeler, and the specific directions for use; provided that if the specific directions for use are too lengthy for inclusion on the label, the notation “take according to written instructions” may be used, if separate written instructions for use are actually issued with the drug, but in no event shall the notation “take as directed,” referring to oral instructions, be considered acceptable. If any prescription for such drug does not indicate the times it may be refilled, if any, such prescription may not be refilled unless the pharmacist

**ACT 88**

is subsequently authorized to do so by the practitioner. The act of dispensing a drug contrary to this subsection shall be deemed to be an act which results in a drug being misbranded while held for sale.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved May 15, 1982.)

**ACT 88**

S.B. NO. 2160-82

A Bill for an Act Relating to Delinquent Moneys.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§ **Delinquent accounts, collection.** Any state agency having an account due which is delinquent, may contract with a collection agency bonded under chapter 443A for collection of the delinquent account. The chairperson or director of the agency may make an agreement with the agency regarding the amount to be retained by it for services.”

SECTION 2. Section 231-13, Hawaii Revised Statutes, is amended to read as follows:

“§231-13 **Director; collection.** The director of taxation shall be responsible for the collection and general administration of all delinquent taxes. The director may forward all claims of the State for delinquent taxes to a collection agency bonded under chapter 443A. The director may make an agreement with the agency regarding the amount to be retained by it for services. He shall duly and accurately account for all delinquent taxes collected.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved May 15, 1982.)

**Notes**

1. The text has been edited pursuant to HRS §23G-16.5.

**ACT 89**

S.B. NO. 2224-82

A Bill for an Act Relating to the Department of Planning and Economic Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201-4, Hawaii Revised Statutes, is amended to read:

“§201-4 **Contracts.** The department of planning and economic development

may contract with qualified private and public agencies, associations, firms, or individuals within or without the State in pursuance of its duties and functions; provided that preference shall be given to contractors within the State; provided further that preference shall be given to qualified parties who agree to match department funds in whole or in part with funds, equipment, materials, or services; provided further that funds to assist associations of producers, processors, or distributors of [agricultural or] industrial products to introduce products which are new or inadequately known to consumers shall be matched by funds equal to at least forty per cent of the funds contracted for by the department or expenses incurred by [it] the department in behalf of the associations; provided further that in instances where the promotion program will benefit one or more of the commodity groups as a whole or where a new or fragile commodity association or industry has the potential for growth but is unable to contribute its full matching share, the department may waive matching fund requirements for the first three years of any contract, but shall require twenty per cent matching funds for the fourth year of any such contract, and at least forty per cent matching funds for the fifth and all subsequent years of any such contract. [With respect to agricultural products and commodities, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.]

The contracts shall be approved in writing by the department and shall specify the name of the contractor, the nature of the work to be performed, the manner in which funds may be expended<sup>1</sup> and such data as the state comptroller may require. [The allocation of any such contract shall be presented to the state director of finance and expended by the state comptroller upon vouchers issued by the contractor and approved by the director of the department. No such contract shall be entered into by the department until all interested and qualified persons registered to do business in the State have been given a reasonable opportunity to submit their proposal of the manner in which the contract is to be performed and the results which can be achieved within the limit of the funds available, together with their qualifications to do the work.]

When necessary to effectuate the purposes of this part, funds to state agencies may authorize expenditures for the purchase of machinery and equipment and the erection and conversion of structures, laboratories, and buildings within the State, which facilities shall be and remain under the jurisdiction of the agencies. Private agencies, associations, firms, or individuals shall provide all structures and equipment necessary to effectuate the purposes of funds made to them, in which cases the value which may be attributed to the use of the facilities shall be considered as matching funds. The department shall retain under its own jurisdiction only such furniture, office equipment, and other equipment as is necessary for administration purposes.

The director of planning and economic development may prescribe rules, pursuant to chapter 91, to carry out provisions of this section relating to the manner in which associations of producers, processors, or distributors may be assisted. The rules may prescribe the qualifications for eligibility of associations for assistance under this section, the preferences and priorities in determining eligibility for such assistance, and the conditions, consistent with the purpose of this chapter, for the

granting or the continuance of assistance to such associations.”

SECTION 2. Section 201-31, Hawaii Revised Statutes, is amended to read:  
“§201-31 Federal funds. Where the governor [or any agency of any governmental unit] or the department with the approval of the governor is able to secure federal funds made available under any act of the Congress of the United States to be expended in connection with or for [the planning and construction of any of the projects or works authorized by this part and Act 150 of the Session Laws of Hawaii 1957,] planning grants and community development block grants, the governor or [agency] department shall have the power to enter into such undertakings with the proper officers or agencies of the federal government. The department may adopt rules pursuant to chapter 91 as may be necessary to administer and effectuate federal grants and programs that it has been assigned.””

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 15, 1982.)

Notes

1. Prior to amendment, a comma appeared here.

ACT 90

S.B. NO. 2261-82

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that tourism is the leading source of jobs and income for the people of the State of Hawaii. Therefore, tourism directly and indirectly provides a leading source of all state revenues. The present decline in the sugar and pineapple industries foreshadows an even greater importance of tourism to the State in the near future.

Today, virtually all of Hawaii's visitors arrive by air and make use of the Honolulu International Airport. The legislature finds that the operation of a functional, well-planned, and properly maintained Honolulu International Airport is therefore a matter of compelling interest.

The State of Hawaii receives substantial revenues from the sales of in-bond merchandise to foreign-bound travelers departing from Honolulu International Airport, revenues that go to the administration of the facility and that are vital to its well-being. Additionally, a high-quality, duty-free operation at the Honolulu International Airport can in itself be an attraction of some magnitude to foreign visitors.

Therefore, the legislature finds that the necessity and importance of maintaining a healthy and high-quality, duty-free operation in the State cannot be understated.

However, the legislature also finds that the duty-free industry is as fragile as it is lucrative, subject to great potential harm by the forces and strains of unfettered competition.

Prior to January 1, 1981, the right to sell and deliver in-bond merchandise to foreign-bound travelers departing from Honolulu International Airport was an exclusive one which was granted pursuant to a competitive bid. On January 1, 1981, two competing contractors began to sell and deliver in-bond merchandise to Honolulu International Airport under separate seven and one-half year contracts with the department of transportation.

On September 12, 1981, approximately eight and one-half months after the two contractors had commenced operations, one of the contractors withdrew from the contract because of difficulty meeting its financial guarantee to the State. The recent withdrawal of one of the contractors is a serious concern of the legislature in that the State receives substantial revenues from the sale and delivery of in-bond merchandise at Honolulu International Airport.

The legislature has reexamined Act 243-81 and finds it to be in the best interest of the State to allow the in-bond marketplace to continue to operate under the protection of anti-trust immunity legislation.

Therefore, the legislature finds it is a matter of compelling state interest to displace unfettered business competition in the in-bond merchandise marketplace in order to maintain the health and quality of the industry and the ultimate health of the economy of the entire State.

The purpose of this bill is to provide a means to displace unfettered business competition in the duty-free industry in Hawaii and to effectuate the above-articulated state interests by limiting the number in-bond operations to only contractor, by providing that the department confer no right nor suffer nor allow any person to offer to sell, sell or deliver in-bond merchandise at Honolulu International Airport except as cargo, and by requiring that the State actively supervise the operations as a substitute for the competitive discipline of a free market economy.

SECTION 2. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Under department operation. In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

- (1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
- (2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;
- (3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or
- (4) Granting the use and occupancy on a temporary basis by license or otherwise any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed

by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

Except as otherwise provided in this section, in each case mentioned in paragraphs (1), (2), (3), and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

The department shall enter into [separate contracts] a contract with no more than [two persons ("contractors")] one person ("contractor") for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. [Each such] The contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchandise for sale to departing foreign-bound passengers.

The department shall grant [such contracts] the contract pursuant to the laws of this State and may take into consideration:

- (1) The payment<sup>1</sup> to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;
- (2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and
- (3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the [contractors] contractor to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of [such contractors,] the contractor, and shall include guidelines relating to the department's review of the reasonableness of [contractors'] contractor's price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the [contracts] contract described above, [during the period ending June 30, 1982,] the department shall confer no right upon nor suffer nor allow any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport[.]; provided that this section shall not prohibit the delivery of in-bond merchandise as cargo to the Honolulu International Airport."

SECTION 3. Section 5, Act 243, Session Laws of Hawaii 1981, is amended to read as follows:

"SECTION 5. This Act shall take effect upon its approval [and shall expire on June 30, 1982]."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 15, 1982.)

Notes

1. Formerly read "payments".

ACT 91

S.B. NO. 2334-82

A Bill for an Act Providing Penalties for Violations of Chapter 290 Relating to Abandoned Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 290, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"~~§290-~~ **Penalties.** Whoever violates any of the provisions of this chapter or any lawful rule promulgated by the director of finance under authority of this chapter, for the violation of which no penalty is provided by law, shall be fined not less than \$50 nor more than \$500."

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved May 15, 1982.)

Notes

1. The text has been edited pursuant to HRS §23G-16.5.

ACT 92

H.B. NO. 2438-82

A Bill for an Act Relating to the Encouragement of Federally Certified Development Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to encourage the formation and successful operation within the State of development companies as defined by Title V of the federal Small Business Investment Act of 1958, as amended. The purpose of the Small Business Investment Act is to improve and stimulate the national economy in general and the small business segment thereof in particular by establishing a program to stimulate and supplement the flow of long-term loan funds which small business concerns need for the sound financing of their growth, expansion, and modernization and which are not available in adequate supply. The legislature intends this Act to benefit the economy of the State by furthering the growth of small business concerns and thereby providing increased employment opportunities.

SECTION 2. Section 478-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Small business investment companies and development companies shall

be exempt from this chapter. The maximum rate of interest charged by such small business investment companies and development companies on any loan shall be the maximum rate of interest permitted, without reference to state law, by the federal Small Business Administration pursuant to the Small Business Investment Act of 1958, as amended.

As used in this subsection “small business investment company” and “development company” [means] mean a company approved by the federal Small Business Administration to operate under the provisions of the federal Small Business Investment Act of 1958 [(72 U.S. Statutes at Large 689 et seq.; 15 U.S.C. 661 et seq.), as amended, and issued a license as provided thereunder.], Public Law 699, as amended.”

SECTION 3. Chapter 241, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to section 241-1 to be appropriately inserted and to read as follows:

““Development company” means a company approved by the federal Small Business Administration to operate under the provisions of Title V of the federal Small Business Investment Act of 1958, Public Law 699, as amended.”

2. Section 241-3 is amended to read as follows:

**“§241-3 Imposition of tax on other banks, building and loan associations, industrial loan companies, financial corporations, [and] small business investment companies[.], and development companies.** Every bank, other than a national banking association, [and] every building and loan association, every industrial loan company, financial corporation, [and] small business investment company, and development company, located or doing business in the State, shall annually, as of January 1, pay a franchise tax measured as, and at the rate, provided in section 241-4.”

SECTION 4. Section 235-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in sections 235-61 to 235-67 relating to withholding and collection of tax at source, and section 235-2.3(g) relating to “unrelated business taxable income”, the following persons and organizations shall not be taxable under this chapter:

- (1) Banks, building and loan associations, industrial loan companies, [and] small business investment companies, and development companies taxable under chapter 241; and insurance companies and agricultural cooperative associations, exclusively taxable under other laws;
- (2) Corporations, companies, associations, or trusts conducted solely for charitable, religious, educational, prepaid legal services, or scientific purposes within the State, including fraternal beneficiary societies;
- (3) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries, no part of the net earnings of which inures to the financial benefit of any private shareholder or individual;
- (4) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (5) Civic leagues or organizations, not organized for profit but operated



exclusively for the promotion of social welfare, which shall include the operation of a prepaid legal service plan, or local associations of employees, the membership of which is limited to the employees of a designated person or persons, and the net earnings of which are devoted exclusively to charitable, educational, prepaid legal service, or recreational purposes within the State;

- (6) Labor organizations;
- (7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholder;
- (8) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries, and which meets the requirements of the Internal Revenue Code for exemption for the tax thereby imposed."

SECTION 5. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply to the following persons:

- (1) Banks taxable under chapter 241;
- (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
- (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
- (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
- (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
- (6) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as well as that of operating a prepaid legal services plan;
- (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
- (8) Hospitals, infirmaries, and sanitararia;

- (9) Cooperative associations now or hereafter incorporated under and pursuant to chapter 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that the exemption shall apply only to the gross income derived from its activities authorized by chapter 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);
- (10) Building and loan associations taxable under chapter 241;
- (11) Persons affected with [leprosy] Hansen's disease and kokuas, with respect to business within the county of Kalawao;
- (12) Corporations, companies, associations, or [trust] trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
- (13) Industrial loan companies taxable under chapter 241[.]; provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- (14) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by state funds;
- (15) [Local development companies incorporated under the laws of the State and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, provided that the exemption shall apply only with respect to gross income derived as interest on loans made to borrowers from loan funds obtained from the Small Business Administration but only if the loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation;] Development companies taxable under chapter 241; provided that the exemption shall apply only to gross income derived as interest on loans made to borrowers as provided by Title V of the federal Small Business Investment Act of 1958, Public Law 699, as amended;
- (16) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations;
- (17) Small business investment companies taxable under chapter 241; provided that the exemption shall apply only to the income derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, Public Law 699, as amended[.]; provided further that the exemption shall not apply to consulting and advisory services engaged in under the first sentence of section 308(b) or Public

Law 699.”

SECTION 6. Section 210-7, Hawaii Revised Statutes, is amended to read as follows:

“**§210-7 Loans to [local] development [corporations.] companies.** The department of planning and economic development may make loans to [local] development [corporations] companies incorporated in the State of Hawaii for the purpose of supplementing the funds required to be forthcoming [from the local development corporations] to qualify [them to receive a loan under section 502] development companies to receive financial assistance under Title V of SBIA. The loans shall be[:

- (1) Of the amount determined by the department to be necessary and proper, subject however to a maximum of twenty per cent of the total cost of any single project;
- (2) At the rate of interest determined by the department to be necessary and proper but not less than that fixed by SBA in its loan; and
- (3) Subject] subject to terms and conditions established by the department as similar a possible to applicable terms and conditions prescribed by rules and regulations promulgated by SBA.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 15, 1982.)

ACT 93

S.B. NO. 2524-82

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-33, Hawaii Revised Statutes, is amended to read as follows:

“**§386-33 Subsequent injuries which would increase disability.** [If an employee receives an injury which of itself would cause a permanent partial disability but which, combined with a previous disability, results in a greater permanent partial disability or in permanent total disability, the employer shall pay compensation only for such disability as would have been caused by the injury without the previous disability. The employee shall be entitled to full compensation for his actual permanent partial or total disability, and, after receipt of the compensation payable by the employer, weekly payments of the balance of the compensation to which the employee is entitled shall be made out of the special compensation fund by orders of the director of labor and industrial relations.]

(a) Where prior to any injury an employee suffers from a previous permanent partial disability and the disability resulting from the injury combines with the previous disability to result in a greater permanent partial disability or in permanent total disability or in death then weekly benefits shall be paid as follows:

- (1) In cases where the disability resulting from the injury combines with the previous disability to result in greater permanent partial disability the employer shall pay the employee compensation for the employee's actual permanent partial disability but for not more than one hundred four weeks; the balance if any of compensation payable to the employee for the employee's actual permanent partial disability shall thereafter be paid out of the special compensation fund;
- (2) In cases where the disability resulting from the injury combines with the previous disability to result in permanent total disability the employer shall pay the employee for one hundred four weeks and thereafter compensation for permanent total disability shall be paid out of the special compensation fund;
- (3) In cases where the disability resulting from the injury combines with the previous disability to result in death the employer shall pay weekly benefits in accordance with sections 386-41 and 386-43 but for not more than one hundred four weeks; the balance of compensation payable under those sections shall thereafter be paid out of the special compensation fund.

(b) Subsection (a) to the contrary notwithstanding, where the director or the appellate board determines that the previous permanent partial disability amounted to less than that necessary to support an award of thirty-two weeks of compensation for permanent partial disability there shall be no liability on the special compensation fund, and in any such case the employer shall pay the employee or the employee's dependents full compensation for the employee's actual permanent partial or total disability or death."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 15, 1982.)

ACT 94

S.B. NO. 2615-82

A Bill for an Act Relating to Theft of Utility Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§269- Meter tampering.** Any person who, without permission or authorization from a utility tampers with, damages, destroys, removes, connects, causes to connect, disconnects, or causes to be disconnected or bypassed any wire, cable, conductor, gas pipe, billing or collection equipment, or device on any meter, line, conduit, property, or facilities of a utility for the purpose of using unmetered services, in addition to any other penalty authorized by law, shall be liable to the utility for treble the amount of the value of the utility services used and the damages or loss of any equipment, property, or facilities of a utility."

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved May 15, 1982.)

Notes

1. The text has been edited pursuant to HRS §23G-16.5.

ACT 95

S.B. NO. 2636-82

A Bill for an Act Relating to Informed Consent.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 671-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board of medical examiners shall, insofar as practicable, establish reasonable standards of medical practice, applicable to specific treatment and surgical procedures, for the substantive content of the information required to be given and the manner in which it is given and in which consent is received in order to constitute informed consent from a patient or a patient’s guardian. The standards shall include, but not be limited to, provisions which are designed to reasonably inform and to be understandable by a patient or a patient’s guardian of [the probable risks and effects of the proposed treatment or surgical procedure, and of the probable risks of not receiving the proposed treatment or surgical procedures.];

(1) The condition being treated;

(2) The nature and character of the proposed treatment or surgical procedure;

(3) The anticipated results;

(4) The recognized possible alternative forms of treatment; and

(5) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment or surgical procedure, and in the recognized possible alternative forms of treatment, including nontreatment.

The standards established by the board shall be prima facie evidence of the standards of care required but may be rebutted by either party.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 15, 1982.)

ACT 96

S.B. NO. 2643-82

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-22.5, Hawaii Revised Statutes, is amended to read:

“[§87-22.5] **Determination of dental plan benefits.** Pursuant to section

87-4, the board of trustees shall provide dental plan benefits to the children of [employees] employee-beneficiaries who have not attained the age of nineteen in the following manner:

- (1) For those children of [employees] employee-beneficiaries who are not participating in a dental program of an employee organization (hereafter called "non-participating [employees"],) employee-beneficiaries), the board shall determine a dental plan and eligibility requirements for such benefits based upon a statutory monthly contribution per enrolled child. Any rate credit or reimbursement from any carrier of any earnings or interest derived from the dental plan of nonparticipating employees shall be used to improve the dental plan benefits of nonparticipating employees.
- (2) For those children of [employees] employee-beneficiaries who participate in the dental program of an employee organization, the board shall allot the statutory monthly contribution per enrolled child or the actual monthly cost of the child's coverage, whichever is less, towards the purchase of dental plan benefits under the dental program of an employee organization; provided that no enrolled child shall have more than one allotment a month.
- (3) Paragraphs (1) and (2) notwithstanding, an [employee] employee-beneficiary shall be required to enroll all of the [employee's] employee-beneficiary's children who are under the age of nineteen in the children's dental plan for nonparticipating [employees] employee-beneficiaries or the dental program of an employee organization."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved May 15, 1982.)

ACT 97

S.B. NO. 2696-82

A Bill for an Act Relating to Consumer Cooperative Associations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to support consumer cooperative associations. A cooperative association is a business that is owned by its customers. It has fixed rates of return on investment capital, operates cooperatively (each member, regardless of investment, has one vote, profits are shared by members), and exists primarily to allow consumers to band together to provide goods and services at relatively inexpensive rates to its membership.

The purpose of this Act is to provide for the chartering of consumer cooperative associations in the State of Hawaii.

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

**“CHAPTER  
CONSUMER COOPERATIVE ASSOCIATIONS  
PART I. GENERAL PROVISIONS**

§ -1 **Definitions.** Except where the context requires otherwise, wherever used in this chapter:

- (1) “Articles” means the articles of incorporation of an association.
- (2) “Association” means a group enterprise incorporated under this chapter.
- (3) “Directors” means the board of directors of an association.
- (4) “Interest-dividends” means the return on share, membership fee, or membership capital of the association which is limited in accordance with section -19.
- (5) “Member” means a member of either a stock or a nonstock association in accordance with section -3.
- (6) “Net savings” means the total income of an association minus the costs of operation.
- (7) “Patronage refund” means the amount returned to the patrons in proportion to their patronage in accordance with section -25.
- (8) “Share or membership capital” refers to the capital paid into an association by a member in accordance with section -3.
- (9) “Surplus funds” means funds of an association which may be utilized for capital improvements, emergencies, or other expenditures of the association upon the authorization of the directors as specified in section -25 or as otherwise specified in this chapter.

§ -2 **Purpose.** An association may be incorporated under this chapter only for the purpose of transacting any lawful business for its membership, the general public, or both.

§ -3 **Stock and nonstock associations; general corporation laws, when applicable.** (a) An association may either be organized with stock or without stock. Subject to section -20, if organized with stock, the association shall require a certain amount of common stock to be purchased from the association in order to permit a stockholder voting and membership privileges, and no class of stock except common stock may grant voting and membership privileges in a stock association. Subject to section -20, if organized without stock, the association shall require a membership fee or amount of membership capital to be paid in, in order to permit the member voting and membership privileges by means of issuance of a membership certificate.

(b) Except where otherwise provided, statutes which apply to domestic profit corporations shall apply to stock associations, and statutes which apply to domestic nonprofit corporations shall apply to nonstock associations.

(c) Associations may amend their articles upon petition to and approval by the director of regulatory agencies to convert from a stock association to a non-stock association or vice-versa. This subsection may be employed by an association only once every two calendar years.

**PART II. SPECIAL PROVISIONS**

§ -11 **Forms.** The department of regulatory agencies shall prepare forms for association articles which may be used by association incorporators and associations, and which shall be supplied to them on request.

§ -12 **Articles; contents.** The articles shall contain:

- (1) The name of the association which shall contain the term "cooperative" or some abbreviation thereof notwithstanding section 421-5.
- (2) The maximum amount or percentage of capital which may be owned or controlled by one member.
- (3) A provision that in all decisions to amend the articles or bylaws the members shall be informed of such decision at least thirty days in advance through a mailing or a prominent notice at all association locations.
- (4) The method and terms of admission to membership and the disposal of members' interests on termination of membership for any reason.
- (5) A provision that a majority of directors, or five per cent of the, or two hundred fifty, members, whichever is less, may submit a petition in writing and demand a special membership meeting, which shall be called by the secretary within thirty days of such demand.
- (6) A provision that notice for all meetings shall be made through posting prominent signs at all association locations or by mailing to the last known address of each member or director. Notices for special meetings shall specify the purpose of the meeting.
- (7) A provision that associations shall not discriminate on their acceptance of members on a basis of race, gender, religion, income, marital status, or nationality.
- (8) A provision that within a specified period of time any action taken by the directors must be referred to the members for approval or disapproval if demanded by petition of at least five per cent of the, or two hundred fifty, members, whichever is less, or by vote of at least a majority of the directors; provided that rights of third parties which have vested between the time of action by the directors and approval or disapproval by the members shall not be impaired.

§ -13 **Meetings, etc.** The articles or bylaws may provide for the holding of meetings by units or portions of the total membership and may provide for a method of transmitting the votes cast to the central meeting, or for a method of representation of members by the election of delegates to attend the central meeting, or for a combination of these methods. If delegates are provided for, all references in this chapter to votes cast by members shall apply to votes cast by delegates. Directors may be apportioned among the units or portions of the total membership and may be elected by the units or portions of the total membership to which they are apportioned.

§ -14 **One member, one vote.** (a) Each member of an association shall have one and only one vote; provided that secondary associations, which are associations solely comprised of other associations or groups organized on a cooperative basis, may allow exceptions to the one vote per member rule, by allo-



cating votes on the basis of the following:

- (1) The number of individual members in each organization; or
- (2) Size of dollar volume of direct transactions between the member organizations and the secondary association.

(b) For the purposes of this section, "groups organized on a cooperative basis" means that:

- (1) Each member has one vote and only one vote, except as may be altered in the articles or bylaws of a secondary cooperative by provision for voting by member organizations;
- (2) The maximum rate at which any return is paid on share or membership capital is limited; and
- (3) The allocation or distribution of net savings after making provision for such separate funds as may be required or specially permitted by statute, articles, or bylaws, is made to member patrons or to all patrons, in proportion to their patronage; or is allocated in a manner which benefits the general welfare of all of the members of the association.

(c) No voting agreement or other device to evade the one member, one vote rule shall be enforceable.

§ -15 **No proxy.** No member of an association shall be permitted to vote by proxy, subject to section -16.

§ -16 **Absentee voting.** The articles or bylaws may allow votes on specific preannounced items by mail or otherwise by members absent from meetings.

§ -17 **Removal of directors.** Section 421-14, relating to the removal of a director of an agricultural association, shall apply to associations formed under this chapter.

§ -18 **Removal of officers.** Section 421-16, relating to the removal of an officer of an agricultural association, shall apply to associations formed under this chapter.

§ -19 **Limitations on interest-dividends.** (a) Interest-dividend interest on share or membership capital shall not exceed the current annual Consumer Price Index percentage increase, or eight per cent, whichever is greater. Interest on loans by members to the association shall not be limited by this section.

(b) Total interest-dividends distributed for any single period shall not exceed thirty per cent of the net savings for that period. Interest-dividends are non-cumulative and the association shall have the right to confiscate all interest-dividends not claimed within six months after the notice of the distribution has been made by either mail or by prominent sign in all the association's locations.

§ -20 **Admission to membership.** The bylaws may provide that a subscriber may vote and hold office prior to payment in full of share or membership capital.

§ -21 **Issuance of stock and membership certificates.** (a) No certificate for membership or any class of stock shall be issued until paid for in full.

(b) The amount required to be paid in on share or membership capital by members shall not exceed twenty-five per cent of the average monthly wage in this State, as defined by the department of labor and industrial relations.

(c) Associations shall make available to all members a statement listing all rights and privileges of membership.

§ -22 **Transfer of shares and membership; withdrawal.** (a) If a member desires to withdraw from the association or dispose of any or all of the member's holdings therein, the directors shall have the power to purchase such holdings by paying the member out of surplus funds the par value or book value, whichever is less, of any or all of the holdings offered. The directors shall then reissue or cancel the holdings. A vote of the majority of the members voting at a regular or special meeting may order the directors to exercise this power to purchase.

(b) If the association fails, within ninety days of the original offer, to purchase all or any part of the holdings offered, the member may dispose of the unpurchased interest elsewhere, subject to the approval of the transferee by a majority vote of the directors. Any prospective transferee not approved by the directors may appeal to the members at their first regular or special meeting thereafter, and the action of the meeting shall be final. If such transferee is not approved, the directors shall exercise their power to purchase, if and when there are sufficient surplus funds.

(c) Members who withdraw from an association under this section may not rejoin that association for six months except with the majority approval of the directors.

§ -23 **Recall of member's holdings.** (a) The bylaws may give the directors the authority to use surplus funds to recall, at par value or book value, whichever is less, the holdings of any member in excess of the amount requisite for membership.

(b) The directors may purchase the amount requisite for membership in cases of inactivity, expulsion, death of the member, or otherwise, as provided in the bylaws of the association. When so recalled, such stock or membership certificate shall be either reissued or canceled.

§ -24 **Expulsion.** Pursuant to section -23(b), associations may provide for expulsion of members. Unless otherwise provided, a member may be expelled and lose all rights and privileges in the association, by the vote of a majority of the directors voting at any validly held meeting of directors. The member against whom the charges are to be proffered shall be informed thereof in writing at least ten days in advance of the meeting, and shall have an opportunity to be heard in person or by counsel at such meeting. On decision of the association to expel a member, the directors shall purchase the member's holdings at par or book value, whichever is less, if and when there are sufficient surplus funds.

§ -25 **Allocation and distribution of net savings.** (a) At least once a year the members, the directors, or both, as the articles or bylaws provide, shall apportion the net savings of the association to one or more of the following categories; except that not less than ten per cent shall be placed in a surplus fund until such time as the fund shall equal at least fifty per cent of the paid-up share or membership capital:

- (1) Interest-dividends, within the limitations of section -19 may be paid upon share or membership capital;
- (2) A portion of the net savings as determined by the articles or bylaws,

may be allocated to an educational fund to be used to further the understanding of the practices and principles of cooperation;

- (3) The association may also choose to pay a patronage refund from net savings and this shall be allocated at the same uniform rate to either the members or to all patrons of the association in proportion to their individual patronage, and according to the federal Internal Revenue Code of 1954, as amended; provided that:
  - (A) In the case of a member patron, the patron's proportionate amount of patronage refund shall be distributed to the patron;
  - (B) In the case of nonmember patrons, their proportionate amount of patronage refund, as the articles or bylaws may provide, may be distributed to them or, if requested by them, credited to their account until the amount of share or membership capital subscribed for has been fully paid.
- (4) The association may also choose to retain some or all its net savings and allocate it in the manner in which it will benefit the general welfare of all the members of the association.

(b) The reserve fund established in subsection (a) may be expended for capital improvements or emergencies upon a two-thirds majority vote of the directors, or may be expended under section -22, -23, or -24, by majority vote of the directors.

§ -26 **Cooperative agreements.** (a) Any association may enter into contracts, agreements, or arrangements with other associations, individuals, joint-ventures, partnerships, or corporations, for the cooperative and economical carrying on of its business.

(b) Any two or more associations by agreement may unite in employing and using or separately employ and use the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

§ -27 **Bonding.** Any individual acting as manager of an association and handling funds or securities amounting to \$5,000 or more, in any one year, shall be covered by an adequate bond as determined by the directors and at the expense of the association. The bylaws may also provide for the bonding of other employees or officers.

§ -28 **Books; auditing.** (a) Subject to subsection (b), every association shall keep a set of books of the association's business operations, which shall be audited at the end of each fiscal year by a certified public accountant who shall not be an officer, director, or employee of the association.

(b) Where the annual gross business income of an association amounts to less than \$1,000,000 (which amount shall be adjusted for changes in the Consumer Price Index since the effective date of this chapter), the audit need not be done by a certified public accountant but may be performed by an auditing committee of two individuals who shall not be employees, plus the association's treasurer.

(c) A written report of the audit, which may include a statement of the amount of business transacted with members and the amount transacted with nonmembers, and which shall include a balance sheet of the association's income and expenses, shall be submitted to the annual meeting of the association.

§ -29 **Annual report.** Every association, within one hundred twenty days of the close of its fiscal year, shall file with the director of regulatory agencies an annual report as prescribed by the director. A copy of the report shall be submitted to the members at their annual meeting, mailed to each member of the association, or printed in an official publication of the association.

§ -30 **Voluntary dissolution, etc.** Section 421-21 shall apply to associations formed under this chapter. For the purposes of this chapter, the term "voting power voting thereon" means those members present.

§ -31 **Merger and consolidation.** Chapter 417, part I, relating to the merger and consolidation of domestic corporations shall apply to associations formed under this chapter.

§ -32 **Associations and agreements are not in restraint of trade.** No association, or method or act thereof which complies with this chapter, shall be deemed a conspiracy or combination in restraint of trade or an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily, or the creation of a combination or pool, or to accomplish any improper or illegal purpose. Any agreements authorized under this chapter shall not be considered as illegal, in restraint of trade, or as part of a conspiracy or combination to accomplish an illegal purpose or act.

§ -33 **Volunteers exempted.** (a) For the purposes of this section, "volunteer" means an individual who:

- (1) is a member of an association;
- (2) is not an employee of the association; and
- (3) who volunteers and donates up to 25 hours of labor and services per month to the association.

(b) Associations may accept labor and services from volunteers.

(c) In addition to any exemptions granted to non-paid labor, volunteers who acknowledge in writing that they are volunteers shall be construed not to be in the employ of the association, their labor and services shall be construed to not be employment, and they shall not be construed to be employees of the association, under title 21 or any other labor law.

§ -34 **Use of name "cooperative"; penalty.** (a) Only (1) associations organized hereunder, (2) groups organized on a cooperative basis under this or any other law of this State, and (3) foreign corporations authorized to do business in this State on a cooperative basis under this or any other law of this State, shall be entitled to use the term "cooperative" or any abbreviation or derivation thereof, as part of their business name, or to represent themselves, in their advertising or otherwise, as conducting business on a cooperative basis as defined in this chapter, notwithstanding section 421-5.

(b) Any person, firm, or corporation violating this section shall be punished by a fine of not more than \$1,000, and the attorney general or any aggrieved individual, association, or group organized on a cooperative basis under this or any other law of this State may sue to enjoin an alleged violation of this section.

§ -35 **Construction of chapter.** If there is any conflict between this chapter and any other law, the provisions of this chapter shall control.

§ -36 **Exemption of voting stock from registration.** Membership stock

or membership certificates under section -3 (a), or share or membership capital of any association organized under or existing prior to passage of this chapter shall be included as exempt securities under section 485-4.

§ -37 **Existing cooperatives.** Any corporation or group operating on a cooperative basis as defined in this chapter currently in the State may elect by a vote of two-thirds of the members present and voting to secure the benefits of and be bound by these provisions, and shall thereupon file such papers or amend such of its articles and bylaws as are not in conformity with these provisions. A certified copy of any amended articles shall be filed with the director of regulatory agencies and a fee of \$25 shall be paid.”

SECTION 3. Section 480-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Nothing in this chapter shall be construed to forbid the existence and operation of fishery [or], agricultural,<sup>1</sup> or consumer cooperative organizations or associations instituted for the purpose of mutual help, and which are organized and operated under chapter 421 [or], 422, or \_\_\_\_\_, or which conform and continue to conform to the requirements of the Capper-Volstead Act (7 U.S.C. 291 and 292), provided that if any such organization or association monopolizes or restrains trade or commerce in any section of this State to such an extent that the price of any fishery [or], agricultural, or<sup>2</sup> consumer product is unduly enhanced by reason thereof this chapter shall apply to such acts.”

SECTION 4. Section 485-4, Hawaii Revised Statutes, is amended to read as follows:

“§485-4 **Exempt securities.** The following securities are exempt from sections 485-8 and 485-25(a)(7):

- (1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state or territory, any political subdivision of a state or territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;
- (2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer of guarantor;
- (3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state or territory or any investment certificate issued by an industrial loan company duly licensed under the industrial loan law of the State of Hawaii;
- (4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state or territory and authorized to do business in the State;

- (5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state or territory and authorized to do business in the State;
- (6) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the State;
- (7) Any security issued or guaranteed by any common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state or territory; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any state or territory;
- (8) Any security listed or approved for listing upon notice of issuance on any exchange registered or exempted under the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;
- (9) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;
- (10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;
- (11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan;
- (12) Any option on a commodity futures contract subject to regulation under the Commodity Exchange Act;
- (13) Any security issued by an "investment company" as defined by and registered under the "Investment Company Act of 1940" (15 U.S.C. §80a)[.];
- (14) Any cooperative association membership stock, membership certificates or share or membership capital, pursuant to section -36, chapter 421 or chapter 422."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 15, 1982.)

## Notes

1. The comma should be underscored.
2. The “, or ” should be underscored.

## ACT 98

S.B. NO. 2913-82

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-98, Hawaii Revised Statutes, is amended to read as follows:

**“§386-98 Penalties for false representations.** If for the purpose of obtaining any benefit or payment under this chapter, either for himself or for any other person, anyone wilfully makes a false statement or representation, he shall be fined not more than [~~\$250.~~] \$1,000.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval and shall not affect any proceedings which were begun, rights which accrued, or penalties or liabilities which were incurred before the effective date.

(Approved May 15, 1982.)

## ACT 99

S.B. NO. 536

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-71, Hawaii Revised Statutes, is amended in the following particulars:

(1) By amending subsection (a) to read:

“(a) The department of social services and housing shall administer and provide public assistance to eligible persons who are disabled, or are at least fifty-five years of age, or have dependent children in the home not otherwise provided for under this chapter, and who are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons have first been determined ineligible for a comparable federally funded financial assistance program and are bona fide residents of this State. In family groups in which there are children, income and resources of both parents, natural or adoptive, shall be considered available for each other and the support of their children. Persons who meet the categorical criteria for eligibility, but fail to satisfy income and resource criteria adopted by the department for eligibility under the comparable federally funded financial assistance program shall not be eligible for general assistance. The failure of any adult member of the assistance unit to comply with the requirements or conditions of general assistance shall exclude the entire assistance unit from receiving financial assistance. However, when the adult member is disqualified for not meet-

ing the work requirement, the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the work requirement occurred. "Assistance unit" as the term is used herein means persons whose needs, income, and assets are considered in the financial assistance payment and their dependents.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of social services and housing shall consider, but is not limited to considering, the following factors: enrollment and receipt of welfare benefits from another jurisdiction; physical presence in the State; maintenance of a place of residence in the State; the availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation; qualification as to residence for purposes of voting in the State; change in vehicle operation license; vehicle registration; enrollment of children in local schools; bank accounts in this State or any other jurisdiction."

(2) By amending subsection (b) to read:

"(b) A disabled person between eighteen and sixty-five years of age shall be eligible for general assistance, if [he:] the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules and regulations of the department;
- (2) Is unable to meet the requirements established by the Federal Supplemental Security Income Program or its successor agency; and
- (3) Is unable to engage in any substantial gainful employment because of a physical or mental impairment determined and certified by a licensed physician. A determination of mental impairment may only be made by a licensed physician whose specialty is in psychiatry. The department may require that such determination and certification be by a licensed physician designated and paid by the department. "Substantial" as the term is used herein [shall mean] means at least thirty hours of work per week. "Disabled" as the term is used herein means disability which extends for a period of over thirty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance under this section. An assistance unit shall be determined ineligible for general assistance if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. [In addition to the foregoing, any] Any person [determined to be] found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102."

(3) By amending subsection (c) to read:

"(c) A person with dependent children in the home shall be eligible for general assistance if[:] the person:

- (1) [He is] Is unemployed for reasons other than voluntary separation without good cause or for misconduct[; and] within twelve months prior to application; and
- (2) [He is] Is actively and diligently seeking gainful employment; and



- (3) [He has] Has not refused to accept employment when offered; and
- (4) [He has] Has registered and is available for work as required by section 383-29; and
- (5) [He has] Has exhausted all of [his] the person's benefits under chapter 383; provided [should] that if the benefits of any person under chapter 383 be less than those for which [he] the person would [otherwise] be eligible [hereunder,] under this section, [he] the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or
- (6) [He is] Is employed but without sufficient income or other resources to provide sufficient support to maintain [himself] the person or those dependent upon [him] the person consistent with the standards of this chapter.

“Children” as used in this section [shall mean] means a person who:

- (1) Is ineligible for and is unable to obtain aid under a federal assistance program; and
- (2) Is in need, and has not sufficient income or other resources to provide health care and support to maintain a standard consistent with this chapter; and
- (3) Has not attained the age of eighteen years; provided that a child between the ages of eighteen and [twenty-one] nineteen years shall be eligible for assistance under this section, if [he or she;] the child is a full-time student enrolled in a public or private secondary school, or equivalent level of vocational or technical school; and further provided that the child is expected to complete the program of the secondary school or vocational or technical school before reaching age nineteen; and
  - [(A) Is regularly attending high school to complete requirements leading to a high school diploma or its equivalent; or
  - (B) Is employed part-time and is enrolled at least half-time in an organized program of vocational or technical training designed to fit the child for gainful employment; or
  - (C) Is employed part-time and is enrolled at least half-time in a local college or university; and]
- (4) Is living in a home with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, niece, or hanai parents in a place of residence maintained by such relative as his own home; or is living in a family home or institution conforming to the standards fixed by the department.

A child for the purposes of this section does not include an unborn child or fetus.”

(4) By amending subsection (d) to read:

“(d) A person who is at least fifty-five years of age shall be eligible for general assistance if[:] the person:

- (1) [He is] Is unemployed for reasons other than voluntary separation without good cause or for misconduct within twelve months prior to application; and
- (2) [He is] Is actively and diligently seeking gainful employment; and

- (3) [He has] Has not refused to accept employment when offered; and
- (4) [He has] Has registered and is available for work as required by section 383-29; and
- (5) [He has] Has exhausted all of his benefits under chapter 383; provided should the benefits of any person under chapter 383 be less than those for which [he] the person would otherwise be eligible hereunder, [he] the person shall be eligible for supplementary general assistance; and provided further that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits; or
- (6) [He is] Is employed but without sufficient income or other resources to provide sufficient income to maintain [himself or those dependent upon him] the assistance unit consistent with the standards of this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 19, 1982.)

ACT 100

S.B. NO. 2600-82

A Bill for an Act Relating to Collective Bargaining in Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-4, Hawaii Revised Statutes, is amended to read as follows:

**"§89-4 Payroll deductions.** (a) Upon receiving from an exclusive representative a written statement specifying the amount of regular dues required of its members in the appropriate bargaining unit, the employer shall deduct this amount from the payroll of every member employee in the appropriate bargaining unit and remit the amount to the exclusive representative; provided that the employer shall make the deduction only upon written authorization from a member employee, such authorization being executed any time after his joining an employee organization]. Additionally, the employer shall deduct an amount equivalent to the regular dues from the payroll of every nonmember employee in the appropriate bargaining unit, and shall remit the amount to the exclusive representative; provided that the deduction from the payroll of every nonmember employee shall be made only for an exclusive representative which provides for a procedure for determining the amount of a refund to any employee who demands the return of any part of the deduction which represents the employees' pro rata share of expenditures made by the exclusive representative for activities of a political and ideological nature unrelated to terms and conditions of employment. If a nonmember employee objects to the amount to be refunded, he may petition the board for review thereof within fifteen days after notice of the refund has been received. If an employee organization is no longer the exclusive representative of the appropriate bargaining unit, the deduction [of regular dues]<sup>1</sup> from the payroll of members and nonmembers shall terminate.

(b) The employer shall, upon written authorization by an employee, executed at any time after his joining an employee organization, deduct from the payroll of the employee the amount of membership dues, initiation fees, group insurance premiums, and other association benefits and shall remit the amount to the employee organization designated by the employee.

(c) The employer shall continue all payroll assignments authorized by an employee prior to the effective date of this chapter and all assignments authorized under subsection (b) until notification is submitted by an employee to discontinue his assignments.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 19, 1982.)

#### Notes

1. So in original.

## ACT 101

S.B. NO. 2624-82

A Bill for an Act Relating to the Grand Jury Counsel.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it was their intention, in providing for grand jury counsels, to aid the judicial processes of the State by permitting counsel to the grand jury when necessary. It was never intended that this provision should cause extensive delays in the judicial procedures nor that it specifically hamper the prosecution. It is the purpose of this Act, therefore, to clarify the law and to assure that it operates in a manner that will help the judicial system in the cause of justice rather than add undue obstacles and hardships.

SECTION 2. Section 612-57, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§612-57]]~~ **Grand jury counsel; duties.** The grand jury counsel shall serve, upon request of the grand jury, as independent legal counsel to the grand jury, to be at the [disposal] call of the grand jury during its proceedings in obtaining appropriate advice on matters of law after the grand jury has been sworn and charged by the court under section 612-16(d) and during the court’s absence. The grand jury counsel may be present during grand jury proceedings, and if not present in the building shall be in the immediate vicinity to the building in which the grand jury meets, so that counsel will be readily available to the grand jury, but shall not participate in the questioning of the witnesses or the prosecution. The grand jury counsel’s function shall be only to receive inquiries on matters of law sought by the grand jury, conduct legal research, and provide appropriate answers[.] of law.”

SECTION 3. Section 612-58, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each grand jury proceeding conducted under the authority of the State

shall be provided with access to a grand jury counsel."

SECTION 4. Chapter 612, Part II, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"§612-60 Grand jury counsel; court review.** If the court finds that the grand jury counsel has provided the grand jury erroneous counsel or has acted improperly, the court may require that the grand jury be given the corrected advice or shall be advised as to improper action, and shall then continue the case."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

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

(Approved May 19, 1982.)

Notes

1. Edited pursuant to HRS §23G-16.5.

ACT 102

S.B. NO. 2890-82

A Bill for an Act Relating to Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 89, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§89- Religious exemption from support of employee organization.** Notwithstanding any other provision of law to the contrary, any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting employee organizations shall not be required to join or financially support any employee organization as a condition of employment; except that an employee may be required in a contract between an employees' employer and employee organization in lieu of periodic dues and initiation fees, to pay sums equal to the dues and initiation fees to a nonreligious, non-labor organization charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code, chosen by the employee from a list of at least three funds, designated in the contract or if the contract fails to designate any funds, then to any fund chosen by the employee. If an employee who holds conscientious objections pursuant to this section requests the employee organization to use the grievance-arbitration procedure on the employee's behalf, the employee organization is authorized to charge the employee for the reasonable cost of using the procedure."

SECTION 2. Chapter 377, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§377- Religious exemption from labor organization membership.** Notwithstanding any other provision of law to the contrary, any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to

joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that an employee may be required in a contract between an employee's employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to the dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code, chosen by an employee from a list of at least three funds, designated in the contract or if the contract fails to designate any funds, then to any fund chosen by the employee. If any employee who holds conscientious objections pursuant to this section requests the labor organization to use the grievance-arbitration procedure on the employee's behalf, the labor organization is authorized to charge the employee for the reasonable cost of using the procedure."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1982.

(Approved May 19, 1982.)

#### Notes

1. Edited pursuant to HRS §23G-16.5

### ACT 103

S.B. NO. 1308

A Bill for an Act Relating to Environmental Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend chapter 342, Hawaii Revised Statutes, to allow the advancement of state funds to the counties in financing the federal share of the planning and design costs of wastewater treatment works which shall be reimbursed by federal funds at the construction stage.

SECTION 2. Section 342-34, Hawaii Revised Statutes, is amended to read as follows:

**"§342-34 Treatment works; construction grants[.]; advances.** (a) The director may make grants to any state or county agency of state funds as authorized and appropriated by the legislature for the construction of necessary treatment works and for other projects intended for wastewater reclamation or wastemanagement by other than conventional means to prevent or to control the discharge of untreated or inadequately treated sewage or other waste into any state waters. He shall coordinate the granting of state funds with available federal funds for the same purpose. No grant shall be made for any project unless (1) the project conforms with the state water pollution control plan, and (2) the project is certified by the director as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs, and, in the case of treatment works, (3) the application for the grant contains reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction. If federal funds are available, the applicant shall be required to pay sixty per cent of the non-federal share of the estimated reasonable cost of

such approved treatment works as defined by PL 92-500. If federal funds are not available, the director may make grants up to one hundred per cent of the estimated reasonable cost of the project.

(b) If the federal funds are not immediately available, the director may advance the federal share of the planning and design cost to the county or state agency, subject to the following provisions:

- (1) The director shall enter into a contract with the applicant specifying the conditions of the advance.
- (2) The advances made by the State to the county or state agency are to be reimbursed to the State immediately upon the receipt from the federal government of the advancement funds or within four years after the advance is made, whichever occurs first."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,300,000, or so much thereof as may be necessary to carry out the purposes of this Act.

Any unexpended or unencumbered balance of any appropriations made by this Act as of the close of business on June 30, 1983 shall lapse into the general fund.

SECTION 4. The sum appropriated shall be expended by the department of health under its HTH-840 program as grants for the counties for the purposes of this Act.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 24, 1982.)

A Bill for an Act Relating to Long-Term Care Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 349-14, Hawaii Revised Statutes, is amended to read:

**"[[§349-14]] Retaliatory acts by facilities or facility employees prohibited.**

(a) No resident seeking advocacy assistance as provided for in [[ ] section 349-12[ ] or making a complaint concerning a facility or [a facility's] any of its employees shall be subject to any retaliatory act by the facility or any of its employees for seeking advocacy assistance or making a complaint[.]; provided that for the purposes of this chapter, the term "retaliatory act" shall include, but not be limited to, actual or threatened physical injury, psychological abuse or neglect, sexual abuse, negligent treatment, maltreatment, or any form of discrimination as reprisal for seeking advocacy assistance or making a complaint. A violation of this section shall be [determined] reported by the executive office on aging [subject to the provisions of chapter 91.] to the appropriate police department or prosecuting attorney.

(b) Any facility or facility employee who violates the provisions of this section shall be guilty of a misdemeanor. Each separate retaliatory act and each day during which any retaliatory act continues shall constitute a separate offense."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act does not affect rights which matured, penalties which were incurred, or prosecutions which were begun prior to the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1982.)

## ACT 105

S.B. NO. 2304-82

A Bill for an Act Relating to Lobbying.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 97-1, Hawaii Revised Statutes, is amended to read as follows:

“§97-1 Definitions. When used in this chapter:

- (1) “Administrative action” means the proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any rule, regulation, or other action governed by section 91-3.
- (2) “Administrative agency” means a commission, board, agency, or other body, or official in the state government that is not a part of the legislative or judicial branch.
- (3) “Contribution” includes a gift, subscription, forgiveness of a loan, advance, or deposit of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make a contribution.
- (4) “Expenditure” includes a payment, distribution, forgiveness of a loan, advance, deposit, or gift of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make an expenditure. It excludes the expenses of preparing written testimony and exhibits for a hearing before the legislature or an administrative agency.
- (5) “Legislative action” means the sponsorship, drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, appointment, or any other matter pending or proposed in the legislature.
- (6) “Lobbyist” means[:
  - (A) Any] any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials.[: or
  - (B) Any individual who spends \$275 or more of his own or any person’s money in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate

with public officials.]

- (7) "Lobbying" means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of influencing any legislative or administrative action.
- (8) "Person" means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, or any other organization or a representative of a group of persons acting in concert."

SECTION 2. Section 97-2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) This chapter shall not apply to:

- (1) Any individual [person] who represents himself and not any other person before the legislature or administrative agency; provided that such [person] individual must nonetheless [register] file a statement of expenditures if he meets any of the provisions of section 97-3(a);
- (2) Any federal, state, or county official or employee acting in his official capacity;
- (3) Any elected public official acting in his official capacity;
- (4) Any newspaper or other regularly published periodical or radio or television station (including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station) while publishing in the regular course of business news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislative or administrative action;
- (5) Any attorney who advises his clients on the construction or effect of proposed legislative or administrative action; provided that such attorney must nonetheless register if he meets any of the provisions of section [97-3(a)] 97-1(6); and
- (6) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of state government, and who makes an occasional appearance at the request of the legislature or an administrative agency, or the lobbyist even though receiving reimbursement or other payment from the legislature or administrative agency or the lobbyist for the appearance."

SECTION 3. Section 97-2.5, Hawaii Revised Statutes, is amended to read as follows:

"**[§97-2.5]** **Renewal of registration.** Each registered lobbyist shall renew his registration biennially by filing a registration and authorization form with the state ethics commission within ten days of the opening of [each] the 1983<sup>1</sup> regular session of the legislature[.] and on every odd-numbered year's session thereafter."

SECTION 4. Section 97-3, Hawaii Revised Statutes, is amended to read as follows:

"**§97-3 Contributions and expenditures; statement.** (a) The following persons shall file a statement of expenditures with the state ethics commission on June 30 and December 31 of each year:



- (1) Each lobbyist.
  - (2) Each person who spends \$275 or more of his or any other person's money in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials.
  - [(2)] (3) Each person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other persons. If [a filer] the person is an industry, trade, or professional association, only the association is the employer of the lobbyist.
- (b) The June 30 report shall cover the period from December 15 of the preceding calendar year through June 15 of the year of the report; and the December [30] 31 report shall cover the period from June 16 through December 14 of the same year.
- (c) The statement shall contain the following information:
    - (1) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of \$25 or more per day was made by the [lobbyist] person filing the statement during the statement period and the amount or value of such expenditures;
    - (2) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more was made by the [lobbyist] person filing the statement during the statement period and the amount or value of such expenditures;
    - (3) The total sum or value of all expenditures for the purpose of lobbying made by the [lobbyist] person filing the statement during the statement period in excess of \$275 during the statement period;
    - (4) The name and address of each person making contributions to the [lobbyist] person filing the statement for the purpose of lobbying in the total sum of \$25 or more during the statement period and the amount or value of such contributions; and
    - (5) The subject area of the legislative and administrative action which was supported or opposed by the [lobbyist] person filing the statement during the statement period.
  - (d) The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure at any special or general election is excluded from the reporting requirement of this section."

SECTION 5. Section 97-6, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) On the verified complaint of any person, to investigate,<sup>2</sup> or cause to be investigated the activities of any [lobbyist] person to determine whether the [lobbyist] person is in compliance with this chapter; and".

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 24, 1982.)

Notes

1. Should be underscored.
2. The comma should be underscored.

ACT 106

S.B. NO. 2970-82

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-4, Hawaii Revised Statutes, is amended to read as follows:

“§304-4 **Powers of regents; official name.** The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university.

The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus. The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities, each of which shall be the same for resident and nonresident students. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students. The nonresident tuition differential shall not be applicable to nonresident students who were enrolled at the university during the fall or spring semester of the 1968-1969 school year, as long as the nonresident students continue to be enrolled at the university as regular students during the next and subsequent academic years, except where such continued enrollment is prevented for good cause as may be determined by the board of regents, nor to nonresident students who are residents of a state or foreign country which permits Hawaii residents to pay resident tuition fees while attending public institutions of higher learning in such state or foreign country, nor to nonresidents, United States military personnel stationed in Hawaii on active duty and their authorized dependents during the period such personnel are stationed in the State, nor to students from any district, commonwealth, territory, or insular jurisdiction, state, or nation which does not provide public institutions of higher learning, nor to employees of the university, their spouses and dependents. The board may waive entirely or reduce the tuition fee or any of the other fees for any students, resident or nonresident, who are well

qualified or in need of financial assistance, not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the system. The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition differential.

The board shall adopt the necessary rules and regulations defining residence for tuition purposes herein; provided that the basic rule shall be that [adult and minor students are resident students if the adult students, or in the case of minor students, their parents or guardians, have been bona fide residents of the State for at least twelve consecutive months next preceding their first registration at the university.] a student shall qualify for the resident tuition fee only if the following criteria are met:

- (1) The adult student, or in the case of a minor student, his parents or guardians, has been a bona fide resident of this State for at least twelve consecutive months next preceding his registration at the university; and
- (2) The adult or minor student has not been claimed as a dependent for tax purposes for at least twelve months next preceding his registration at the university by his parents or guardians who reside outside of the State.

The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect the spring semester following its approval.

(Approved May 24, 1982.)

ACT 107

H.B. NO. 790

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to read:

"**§359G-33 Employee housing.** The authority may develop or may assist in the development and construction of employee housing for persons of low and moderate income. The authority may adopt rules and prescribe terms and conditions to carry out the purposes of this section."

SECTION 2. New statutory material is underscored.<sup>1</sup>

**ACT 108**

**SECTION 3.** This Act shall take effect upon its approval.  
(Approved May 24, 1982.)

**Notes**

1. Edited pursuant to HRS §23G-16.5.

**ACT 108**

**H.B. NO. 2010-82**

**A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii effective upon approval of this Act to June 30, 1983, for the purpose of compensating the following pursuant to Chapter 351, Hawaii Revised Statutes, in the amounts set out opposite their respective case numbers:

Case No. 74-104	\$2,253.04
Case No. 74-104 (Kenneth Robbins-Attorney)	50.00
Case No. 75-136	25.00
Case No. 75-136 (Philip Bogetto-Attorney)	25.00
Case No. 77-206	375.00
Case No. 77-206 (Dennis Potts-Attorney)	25.00
Case No. 78-198	1,054.02
Case No. 78-198 (Stephen Yamada-Attorney)	25.00
Case No. 78-239	1,800.00
Case No. 78-248	1,439.19
Case No. 79-48	1,626.00
Case No. 79-48 (John Himmelman-Attorney)	50.00
Case No. 79-55	5,000.00
Case No. 79-88	1,633.12
Case No. 79-126	1,837.98
Case No. 79-127	1,459.01
Case No. 79-147	296.25
Case No. 79-153	950.40
Case No. 79-154	827.59
Case No. 79-231	1,032.00
Case No. 79-251	125.00
Case No. 79-279	100.00
Case No. 79-283	640.23
Case No. 79-293	700.00
Case No. 79-307	50.00
Case No. 79-318	3,641.14
Case No. 79-318 (St. Francis Hospital-Medical)	971.80
Case No. 79-318 (Dr. Francis Lim-Medical)	343.20

Case No. 79-318 (Dr. Marco Rizzo-Medical)	1,362.40
Case No. 79-318 (Dennis Potts-Attorney)	75.00
Case No. 80-5	1,800.00
Case No. 80-10	2,563.60
Case No. 80-16	4,000.00
Case No. 80-18	1,602.86
Case No. 80-27	1,125.00
Case No. 80-32	1,704.83
Case No. 80-32 (Queen's Medical Center-Medical)	72.00
Case No. 80-37	1,160.75
Case No. 80-42	25.00
Case No. 80-52	750.00
Case No. 80-59	252.89
Case No. 80-65	1,000.00
Case No. 80-66	1,000.00
Case No. 80-72	25.00
Case No. 80-81	250.00
Case No. 80-97	500.00
Case No. 80-113	25.00
Case No. 80-123	2,043.38
Case No. 80-124	738.48
Case No. 80-125	250.00
Case No. 80-128	1,812.69
Case No. 80-134	1,141.12
Case No. 80-135	526.36
Case No. 80-136	250.00
Case No. 80-137	157.50
Case No. 80-139	1,000.00
Case No. 80-144	1,096.00
Case No. 80-148	250.00
Case No. 80-159	1,267.60
Case No. 80-160	150.00
Case No. 80-161	504.80
Case No. 80-164	533.60
Case No. 80-165	2,411.91
Case No. 80-165 (Rick DeWaele-Attorney)	100.00
Case No. 80-166	750.00
Case No. 80-181	250.00
Case No. 80-185	250.00
Case No. 80-189	750.00
Case No. 80-191	155.66
Case No. 80-193	100.00
Case No. 80-195	1,516.00
Case No. 80-196	1,000.00
Case No. 80-201	250.00
Case No. 80-202	560.00
Case No. 80-213	1,500.00

**ACT 108**

Case No. 80-228	2,347.26
Case No. 80-228 (Allison Lynde-Attorney)	25.00
Case No. 80-231	97.57
Case No. 80-235	1,520.82
Case No. 80-235 (Ronald Amemiya-Attorney)	50.00
Case No. 80-242	1,433.38
Case No. 80-242 (Andrew Sandilands-Attorney)	75.00
Case No. 80-249	310.09
Case No. 80-250	1,925.86
Case No. 80-252	500.00
Case No. 80-257	192.34
Case No. 80-261	1,495.84
Case No. 80-263	750.00
Case No. 80-270	400.43
Case No. 80-273	2,961.96
Case No. 80-275	1,497.09
Case No. 80-277	750.00
Case No. 80-278	546.00
Case No. 80-283	3,747.63
Case No. 80-284	400.00
Case No. 80-286	599.16
Case No. 80-295	100.00
Case No. 80-299	1,684.64
Case No. 80-300	1,174.84
Case No. 80-304	351.70
Case No. 80-306	378.68
Case No. 80-307	1,450.88
Case No. 80-307 (Kaiser Medical Center-Medical)	854.00
Case No. 80-308	1,334.40
Case No. 80-315	269.20
Case No. 80-321	350.00
Case No. 80-328	1,148.00
Case No. 80-329	500.00
Case No. 80-329 (Queen's Medical Center-Medical)	293.40
Case No. 80-329 (Fronk Clinic-Medical)	141.46
Case No. 80-329 (Radiology Group Inc.-Medical)	166.17
Case No. 80-329 (Radiology Associates Inc.-Medical)	110.24
Case No. 80-333	150.00
Case No. 80-336	5,422.09
Case No. 80-337	298.21
Case No. 80-339	750.00
Case No. 80-342	5,141.82
Case No. 80-343	1,692.58
Case No. 80-345	1,281.35
Case No. 80-346	250.00
Case No. 80-347	300.00
Case No. 80-349	254.03

Case No. 80-353	100.00
Case No. 80-354	355.39
Case No. 80-358	1,575.00
Case No. 80-360	100.00
Case No. 80-360 (Straub Clinic-Medical)	237.12
Case No. 80-361	524.80
Case No. 80-364	200.00
Case No. 80-364 (Fronk Clinic-Medical)	527.66
Case No. 80-364 (Pearlridge Hospital-Medical)	17.33
Case No. 80-365	393.00
Case No. 80-367	750.00
Case No. 80-368	150.00
Case No. 80-369	1,689.04
Case No. 80-370	3,706.91
Case No. 80-371	254.31
Case No. 80-372	250.00
Case No. 80-372 (Kaiser Medical Center-Medical)	153.30
Case No. 80-373	1,079.10
Case No. 80-374	733.54
Case No. 80-376	781.00
Case No. 80-377	1,491.38
Case No. 80-377 (Dr. John Henrickson, Jr.-Medical)	240.24
Case No. 80-377 (International Life Support-Medical)	115.50
Case No. 80-377 (Dr. Hayden Mees-Medical)	75.00
Case No. 80-377 (Kaiser Medical Center-Medical)	81.70
Case No. 80-377 (Dr. Gene Doo-Medical)	87.26
Case No. 80-379	50.00
Case No. 80-379 (Kaiser Medical Center-Medical)	368.65
Case No. 80-381	223.00
Case No. 80-382	842.47
Case No. 80-384	750.00
Case No. 80-385	500.00
Case No. 80-386	150.00
Case No. 80-387 (Emergency Group Inc.-Medical)	26.62
Case No. 80-387 (Wahiawa General Hospital-Medical)	128.35
Case No. 80-387 (Radiology Group Inc.-Medical)	39.00
Case No. 80-387 (Radiology Associates Inc.-Medical)	12.48
Case No. 80-387 (Queen's Medical Center-Medical)	50.75
Case No. 80-387 (Waianae Coast Comprehensive Health Center-Medical)	17.52
Case No. 80-387 (Kapiolani-Children's Medical Center-Medical)	135.80
Case No. 80-387 (Hawaii Emergency Physicians Associated Inc.-Medical)	497.95
Case No. 80-388	877.24
Case No. 80-389	750.00
Case No. 80-393	1,312.85
Case No. 80-394	328.62

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Case No. 80-395	500.00
Case No. 80-398	939.44
Case No. 80-400	2,062.30
Case No. 80-402	426.70
Case No. 80-402 (Victor Agmata, Jr.-Attorney)	25.00
Case No. 80-403	200.00
Case No. 80-405	1,009.76
Case No. 80-406	579.52
Case No. 80-409	654.80
Case No. 80-410	5,964.57
Case No. 80-410 (Everett Cuskaden-Attorney)	250.00
Case No. 80-411	4,242.49
Case No. 80-412	1,500.00
Case No. 80-415	1,375.85
Case No. 80-416	459.31
Case No. 80-417	1,800.00
Case No. 80-418	1,354.52
Case No. 80-420	463.57
Case No. 80-421	2,005.00
Case No. 80-422	150.00
Case No. 80-422 (Jonathan Waxman-Attorney)	50.00
Case No. 80-427	209.48
Case No. 80-427 (Michael Kim-Attorney)	25.00
Case No. 80-429	815.47
Case No. 80-432	362.08
Case No. 80-433	100.00
Case No. 80-436 (Dr. Ruben Casile-Medical)	3,337.51
Case No. 80-436 (Dr. Tadao Nagashima-Medical)	475.80
Case No. 80-436 (Dr. Robert Harvey-Medical)	234.00
Case No. 80-436 (Dr. Richard Lundborg-Medical)	187.20
Case No. 80-436 (Hilo Radiologic Associates Ltd.-Medical)	168.02
Case No. 80-436 (Hilo Medical Lab. Inc.-Medical)	130.93
Case No. 80-438	2,100.73
Case No. 80-439	2,194.49
Case No. 80-440	262.00
Case No. 80-442	2,598.00
Case No. 80-443	1,283.57
Case No. 80-444	1,968.80
Case No. 80-447	100.00
Case No. 80-448	100.00
Case No. 80-450	330.07
Case No. 80-451	1,085.00
Case No. 80-451 (Dr. Allen Yoshimura-Medical)	750.00
Case No. 80-453	1,000.00
Case No. 80-454	515.83
Case No. 80-455	563.35
Case No. 81-1	100.00



Case No. 81-5	150.00
Case No. 81-7	2,726.08
Case No. 81-8	150.00
Case No. 81-8 (Queen's Medical Center-Medical)	155.50
Case No. 81-8 (Radiology Associates Inc.-Medical)	53.04
Case No. 81-8 (The Emergency Group Inc.-Medical)	46.80
Case No. 81-9	100.00
Case No. 81-10	100.00
Case No. 81-11	754.65
Case No. 81-12	720.84
Case No. 81-13	300.00
Case No. 81-13 (Hilo Hospital-Medical)	56.75
Case No. 81-15	150.00
Case No. 81-16	200.00
Case No. 81-19	150.00
Case No. 81-21	1,200.00
Case No. 81-25	1,800.00
Case No. 81-27	75.00
Case No. 81-27 (Kona Hospital-Medical)	209.30
Case No. 81-27 (Dr. Gunars Medins-Medical)	132.50
Case No. 81-30	25.00
Case No. 81-31	50.00
Case No. 81-32	300.00
Case No. 81-35	1,800.00
Case No. 81-36	150.19
Case No. 81-36 (Kaiser Medical Center-Medical)	199.61
Case No. 81-37	810.00
Case No. 81-37 (Dr. Ray Berringer-Medical)	644.80
Case No. 81-37 (Dr. Douglas P. Chang-Medical)	41.00
Case No. 81-39	25.00
Case No. 81-42	128.00
Case No. 81-42 (St. Francis Hospital-Medical)	244.00
Case No. 81-42 (Kuakini Medical Center-Medical)	18.00
Case No. 81-42 (Young K. Paik & Associates-Medical)	23.92
Case No. 81-42 (Victor Agmata, Jr.-Attorney)	25.00
Case No. 81-43	1,000.00
Case No. 81-44	481.60
Case No. 81-46	947.11
Case No. 81-48	2,378.00
Case No. 81-50	1,495.50
Case No. 81-51	750.00
Case No. 81-52	698.24
Case No. 81-54	1,200.00
Case No. 81-55	25.00
Case No. 81-57	50.00
Case No. 81-58	400.00
Case No. 81-59	425.00

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Case No. 81-59 (Kaiser Medical Center-Medical)	415.85
Case No. 81-62	122.00
Case No. 81-63	819.38
Case No. 81-64	208.50
Case No. 81-65	576.40
Case No. 81-66	453.00
Case No. 81-67	137.46
Case No. 81-69	2,000.00
Case No. 81-70	316.10
Case No. 81-71	5,032.75
Case No. 81-71 (Gregory Tanaka-Attorney)	150.00
Case No. 81-72	580.80
Case No. 81-73	1,885.56
Case No. 81-73 (Honolulu Medical Group-Medical)	1,539.28
Case No. 81-73 (Radiology Associates Inc.-Medical)	382.98
Case No. 81-73 (Queen's Medical Center-Medical)	106.00
Case No. 81-73 (Honolulu Orthopedic Supply Inc.-Medical)	67.60
Case No. 81-78	310.72
Case No. 81-79	2,567.21
Case No. 81-80	193.37
Case No. 81-80 (Radiology Associates Inc.-Medical)	40.00
Case No. 81-85	1,800.00
Case No. 81-87	1,500.00
Case No. 81-88	84.00
Case No. 81-88 (Kahuku Hospital-Medical)	89.00
Case No. 81-88 (Dr. Martin Wolferstan-Medical)	46.80
Case No. 81-90	2,136.08
Case No. 81-91	1,300.11
Case No. 81-92	620.95
Case No. 81-93	3,138.47
Case No. 81-94	150.00
Case No. 81-96	183.46
Case No. 81-97	237.45
Case No. 81-98	621.60
Case No. 81-100	3,035.61
Case No. 81-101	3,599.04
Case No. 81-102	100.00
Case No. 81-103	800.00
Case No. 81-104	25.00
Case No. 81-104 (Queen's Medical Center-Medical)	116.85
Case No. 81-104 (Honolulu Medical Group-Medical)	72.80
Case No. 81-104 (The Emergency Group Inc.-Medical)	117.52
Case No. 81-104 (Radiology Associates Inc.-Medical)	23.92
Case No. 81-105	100.00
Case No. 81-106	1,800.00
Case No. 81-108	507.00
Case No. 81-109	314.28

Case No. 81-110	750.00
Case No. 81-112	930.77
Case No. 81-113	1,500.00
Case No. 81-114	1,800.00
Case No. 81-115	250.00
Case No. 81-116	1,500.00
Case No. 81-117	25.00
Case No. 81-118	100.00
Case No. 81-119	504.00
Case No. 81-123	465.31
Case No. 81-124	3,000.00
Case No. 81-125	2,885.75
Case No. 81-127 (G N Wilcox Memorial Hospital & Health Center-Medical)	788.48
Case No. 81-127 (Kauai Medical Group-Medical)	262.82
Case No. 81-128	910.00
Case No. 81-131	1,800.00
Case No. 81-132	286.00
Case No. 81-133	150.00
Case No. 81-134	100.00
Case No. 81-135	1,243.74
Case No. 81-135 (Michael Kim-Attorney)	25.00
Case No. 81-137	337.14
Case No. 81-137 (Queen's Medical Center-Medical)	362.05
Case No. 81-137 (The Emergency Group Inc.-Medical)	159.12
Case No. 81-137 (Victor Agmata, Jr.-Attorney)	25.00
Case No. 81-139	923.50
Case No. 81-140	3,569.32
Case No. 81-143	1,800.00
Case No. 81-146	241.02
Case No. 81-148	810.00
Case No. 81-154	150.00
Case No. 81-154 (Waianae Medical Clinic Inc.-Medical)	80.86
Case No. 81-155	150.00
Case No. 81-155 (Queen's Medical Center-Medical)	125.00
Case No. 81-156	2,866.72
Case No. 81-157	507.76
Case No. 81-159	1,027.10
Case No. 81-163	330.00
Case No. 81-165	437.00
Case No. 81-168	363.65
Case No. 81-169	875.20
Case No. 81-170	470.00
Case No. 81-170 (Straub Clinic-Medical)	428.20
Case No. 81-170 (Dr. Herman Zampetti-Medical)	265.14
Case No. 81-171	1,387.44
Case No. 81-172	4,349.56

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Case No. 81-177	1,047.00
Case No. 81-179	450.00
Case No. 81-180	1,184.23
Case No. 81-183	167.17
Case No. 81-184	1,566.40
Case No. 81-185	150.00
Case No. 81-189	95.00
Case No. 81-189 (Borthwick Mortuary-Funeral)	906.60
Case No. 81-190	250.00
Case No. 81-192	226.94
Case No. 81-194	50.00
Case No. 81-194 (Kona Hospital-Medical)	195.21
Case No. 81-195	25.00
Case No. 81-196	25.00
Case No. 81-196 (Straub Clinic-Medical)	177.93
Case No. 81-196 (William Brady-Attorney)	25.00
Case No. 81-198	885.00
Case No. 81-198 (Kaiser Medical Center-Medical)	160.55
Case No. 81-199	2,913.04
Case No. 81-199 (Kuakini Medical Center-Medical)	821.00
Case No. 81-199 (Dr. Franklin Kometani-Medical)	1,309.62
Case No. 81-200	370.16
Case No. 81-201	1,486.21
Case No. 81-201 (Straub Clinic-Medical)	2,012.96
Case No. 81-202	2,500.00
Case No. 81-203	500.00
Case No. 81-204	1,800.00
Case No. 81-207	200.00
Case No. 81-208	427.52
Case No. 81-211	246.40
Case No. 81-213	1,844.00
Case No. 81-214	796.00
Case No. 81-214 (G N Wilcox Memorial Hospital & Health Center-Medical)	577.40
Case No. 81-214 (Kauai Medical Group-Medical)	231.40
Case No. 81-216	836.00
Case No. 81-216 (Kapiolani Children's Medical Center-Medical)	58.10
Case No. 81-217	300.00
Case No. 81-218	1,220.00
Case No. 81-223	1,225.00
Case No. 81-225	4,000.00
Case No. 81-226	388.84
Case No. 81-228	1,800.00
Case No. 81-231	326.00
Case No. 81-232	650.73
Case No. 81-234	100.00
Case No. 81-235	150.00

Case No. 81-236	250.00
Case No. 81-242	2,421.26
Case No. 81-243	151.14
Case No. 81-245	350.00
Case No. 81-246	1,006.00
Case No. 81-247	972.00
Case No. 81-249	256.16
Case No. 81-250	275.00
Case No. 81-250 (Maui Memorial Hospital-Medical)	1,303.20
Case No. 81-250 (Dr. Charles Mitchell-Medical)	37.50
Case No. 81-250 (Dr. John Mills-Medical)	37.50
Case No. 81-250 (Maui Medical Group Inc.-Medical)	1,287.00
Case No. 81-250 (Dr. Ken McCollum-Medical)	327.60
Case No. 81-250 (Dr. Russell Stodd-Medical)	27.00
Case No. 81-250 (Dr. Robert Hayes-Medical)	94.72
Case No. 81-250 (Jonathan Waxman-Attorney)	25.00
Case No. 81-252	2,110.90
Case No. 81-253	430.00
Case No. 81-254	812.00
Case No. 81-254 (Pearlridge Hospital-Medical)	1,090.74
Case No. 81-254 (Fronk Clinic-Medical)	50.54
Case No. 81-254 (Hawaii Plastic Surgical Associates Inc.-Medical)	1,289.60
Case No. 81-255	738.80
Case No. 81-256	327.68
Case No. 81-257	570.00
Case No. 81-258	311.95
Case No. 81-259	3,585.48
Case No. 81-260	150.00
Case No. 81-261	75.00
Case No. 81-261 (Lawrence McCreery-Attorney)	25.00
Case No. 81-262	150.00
Case No. 81-263	160.00
Case No. 81-263 (Queen's Medical Center-Medical)	658.85
Case No. 81-263 (Kaiser Medical Center-Medical)	323.00
Case No. 81-263 (Dr. Antonio Tan-Medical)	149.76
Case No. 81-263 (Radiology Associates Inc.-Medical)	84.24
Case No. 81-263 (International Life Support Inc.-Medical)	127.00
Case No. 81-264	2,015.73
Case No. 81-264 (Roy Chang-Attorney)	200.00
Case No. 81-265	250.00
Case No. 81-267	907.30
Case No. 81-268	1,549.24
Case No. 81-269	275.56
Case No. 81-270	393.27
Case No. 81-271	167.57
Case No. 81-271 (St. Francis Hospital-Medical)	238.00
Case No. 81-277	100.00

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Case No. 81-278	975.00
Case No. 81-278 (Victor Agmata, Jr.-Attorney)	25.00
Case No. 81-279	50.00
Case No. 81-280	1,800.00
Case No. 81-282	806.00
Case No. 81-283	807.16
Case No. 81-285	204.80
Case No. 81-286	2,000.00
Case No. 81-287	3,700.00
Case No. 81-288	1,500.00
Case No. 81-289	339.13
Case No. 81-290	50.00
Case No. 81-292 (Queen's Medical Center-Medical)	460.15
Case No. 81-292 (The Emergency Group Inc.-Medical)	46.80
Case No. 81-292 (International Life Support Inc.-Medical)	126.00
Case No. 81-293	1,800.00
Case No. 81-296	937.60
Case No. 81-297	300.00
Case No. 81-298	75.00
Case No. 81-300	1,850.00
Case No. 81-301	765.60
Case No. 81-302	1,200.00
Case No. 81-305	2,450.00
Case No. 81-305 (Kenneth Takenaka-Attorney)	50.00
Case No. 81-308	375.000
Case No. 81-309	1,539.75
Case No. 81-310	1,104.26
Case No. 81-312	308.33
Case No. 81-313	500.00
Case No. 81-314	800.00
Case No. 81-315	250.00
Case No. 81-316	2,425.00
Case No. 81-316 (William Eggers III-Attorney)	75.00
Case No. 81-320	100.00
Case No. 81-324	750.00
Case No. 81-325	345.77
Case No. 81-325 (Victor Agmata, Jr.-Attorney)	25.00
Case No. 81-327	350.00
Case No. 81-328	75.00
Case No. 81-329	3,336.88
Case No. 81-331	2,202.66
Case No. 81-334	300.00
Case No. 81-338	907.44
Case No. 81-348 (Straub Clinic-Medical)	3,088.20
Case No. 81-351	1,883.25
Case No. 81-352	717.87
Case No. 81-354	618.12

Case No. 81-356	945.65
Case No. 81-358	5,015.93
Case No. 81-359	500.00
Case No. 81-361	226.88
Case No. 81-362	4,900.16
Case No. 81-363	50.00
Case No. 81-365	200.00
Case No. 81-365 (Straub Clinic-Medical)	1,853.15
Case No. 81-366	250.88
Case No. 81-367	5.00
Case No. 81-368	5,851.00
Case No. 81-373	959.50
Case No. 81-382	542.25
Case No. 81-385	1,140.77
Case No. 81-386	286.71
Case No. 81-403	6,413.52
Case No. 81-405	2,674.14

SECTION 2. The additional sum of \$1,000 shall be appropriated out of the general revenues of the State to compensate a victim (Case No. 78-345) who was awarded compensation in 1979.

SECTION 3. The sums appropriated in Sections 1 and 2 of this Act shall be deposited in the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1983, shall lapse into the general fund of the State.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1982.)

ACT 109

H.B. NO. 2176-82

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-6, Hawaii Revised Statutes, is amended to read: "§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Promulgate rules and regulations, which rules and regulations, upon compliance with chapter 91, shall have the force and effect of law;

- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its public documents and records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use; or exceed one year for land to be used for resort, commercial, industrial, or other business use;
- (8) Delegate to the chairman or employees of the department of land and natural resources, subject to the board's control and responsibility, such powers and duties as may be lawful or proper for the performance of the functions vested in the board; [and]
- (9) Utilize arbitration under chapter 658 to settle any controversy arising out of any existing or future lease[.];
- [[ (10) ]] (10) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose[.];
- (11) Bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall be subject to a fine of not more than \$500 per day and shall be liable for administrative costs incurred by the department and for payment of damages; and
- (12) Set, charge, and collect interest on delinquent leases, sales, or other accounts. The rate of interest shall not exceed one per cent a month; provided that the contract shall state the interest rate and be signed by the party to be charged."

SECTION 2. Material to be repealed is bracketed. New material is underscored.

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

(Approved May 24, 1982.)



*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 26H, Hawaii Revised Statutes, is amended by adding a new section to be designated Section 26H-4 as follows:

“§26H-4 **Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 448H (Elevator Mechanics Licensing Board)

(b) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- (6) Chapter 447 (Dental Hygienists)

(c) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)

- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)

(d) The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)

(e) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

(f) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)

- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies).”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon approval.  
(Approved May 24, 1982.)

Notes

- 1. Edited pursuant to HRS §23G-16.5.

ACT 111

H.B. NO. 2318-82

A Bill for an Act Relating to Intake Service Centers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-1.3, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 353-1.4, Hawaii Revised Statutes, is amended to read:

“**§353-1.4 Creation of intake service center.** There shall be within the department of social services and housing, for administrative purposes, an intake service center for each of the counties. Each center shall be directed and managed by an administrator to be appointed pursuant to chapters 76 and 77. There shall be an over-all state executive director of all the intake service centers who shall set the policies, directions, priorities, and procedures for the operation of intake service centers, as well as manage, control, and direct all of the intake service centers and provide periodic reports not less than annually on their operations to the governor [and the intake service center board.] The state executive director shall be appointed by the governor without regard to chapters 76 and 77 but shall meet the qualifications for the position determined by the department of personnel services. Any center may be integrated with and operated concurrently with a community correctional center.

The intake service center shall:

- (1) Provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;
- (2) Provide non-custodial and program services for persons awaiting judicial disposition who have not been conditionally released;
- (3) Provide such other personal and correctional services as needed;
- (4) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;
- (5) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;

- (6) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs.

The intake service center may be staffed by full-time or part-time professional and clerical staff appointed pursuant to chapters 76 and 77, or utilize contractual professional services.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1982.)

#### Notes

1. Edited pursuant to HRS §23G-16.5.

## ACT 112

H.B. NO. 2444-82

A Bill for an Act Relating to Death.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 327C-1, Hawaii Revised Statutes, is amended to read:

“**§327C-1 Determination of death.** (a) Except as provided in subsection (b) of this section, a person shall be considered dead if, in the announced opinion of a physician licensed under part I of chapter 453[,] or chapter 460 or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of spontaneous respiratory and circulatory functions. Death will have occurred at the time when the irreversible cessation of the functions first coincided.

(b) In the event that artificial means of support preclude a determination that respiratory and circulatory functions have ceased, a person shall be considered dead if, in the opinion of an attending physician licensed under part I of chapter 453[,] or chapter 460 or excepted from licensure by section 453-2(3) and of a consulting physician licensed under part I of chapter 453[,] or chapter 460 or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of brain function. The opinions of the physicians shall be evidenced by signed statements. Death will have occurred at the time when the irreversible cessation of brain function first occurred. Death shall be pronounced before artificial means of support are withdrawn and before any vital organ is removed for purposes of transplantation.

(c) When a part of a donor is used for direct organ transplantation under chapter 327, and the donor's death is established by determining that the donor experienced irreversible cessation of brain function, the determination shall only be made under subsection (b) of this section. The determination of death in all other cases shall be made under subsection (a) of this section. The physicians making the determination of death shall not participate in the procedures for removing or transplanting a part, or in the care of any recipient.

(d) All death determinations in the State shall be made pursuant to this section and shall apply to all purposes, including but not limited to civil and criminal actions, any laws to the contrary notwithstanding, provided that presumptive deaths under the Uniform Probate Code shall not be affected by this section.

(e) The director of health shall convene in every odd-numbered year, a committee which shall be composed of representatives of appropriate general and specialized medical professional organizations, licensed attorneys, and members of the public. The committee shall review medical practice, legal developments, and other appropriate matters to determine the continuing viability of this section, and shall submit a report of its findings and recommendations to the legislature, prior to the convening of the regular session held in each even-numbered year."

SECTION 2. Section 338-1(6), Hawaii Revised Statutes, is amended by amending the definition of "physician" to read:

"(6) "Physician" means a person [legally authorized] licensed to practice medicine[,] under part I chapter 453 or a practitioner of medicine or surgery excepted from licensure by section 453-2(3) or a person licensed to practice osteopathy[, or the science of naturopathy in the state.] under chapter 460."

SECTION 3. Section 442-17, Hawaii Revised Statutes, is amended to read:

"**§442-17 Licensees, duties.** Chiropractic licensees shall observe and be subject to all state and municipal regulations relating to all matters pertaining to public health [and shall execute all necessary death certificates,] and may execute disability and health certificates so long as the same are confined to physical conditions and ailments which they are by law authorized to treat, which certificates shall be accepted by all officials, authorities, and boards operating within the State who are officially concerned with the matters or subject covered by the certificates."

SECTION 4. Section 453-2, Hawaii Revised Statutes, is amended to read:

"**§453-2 License required; exceptions.** Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to his name, with the intent thereby to imply that [[ ]he[ ]] is a [practioner] practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and

regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel and physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section 671-3. Any person who provides emergency medical services as a full or part-time employee of any emergency ambulance service shall be certified under part II."

SECTION 5. Section 455-8, Hawaii Revised Statutes, is amended to read:

**"§455-8 License to practice; biennial registration.** Licenses to practice naturopathy shall be issued by the board in such form as the board determines, to those who qualify according to this chapter. Naturopathy physicians licensed under this chapter shall observe and be subject to all state regulations relative to reporting births [and deaths] and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. Every person holding a license to practice in the State shall reregister with the state board of examiners in naturopathy on or before December 31 of each odd-numbered year and shall pay a reregistration fee of \$200. The failure to so reregister and pay the reregistration fee constitutes a forfeiture of license; provided that the license shall be reinstated upon written application therefor together with payment of all delinquent fees and the sum of \$75."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 24, 1982.)

ACT 113

H.B. NO. 2826-82

A Bill for an Act Relating to Waimano Training School and Hospital.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 333, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . WAIMANO TRAINING SCHOOL AND HOSPITAL**

**§333- Program; coordination and supervision.** The department of health

shall coordinate and supervise a mental retardation program in the State which shall consist of community clinical services, Waimano training school and hospital, and protective services. The director of health, hereinafter referred to as "director," shall be responsible for the administration of the program.

**§333- Waimano training school and hospital.** There shall be in the State an institution known as "Waimano training school and hospital" for persons who because of mental retardation are incapable of independent self-support and self-management in the community or incapable of attaining independent self-support and self-management without proper treatment and training.

**§333- Rules.** The director may prescribe, subject to the applicable provisions of chapter 91, rules necessary for the implementation of this part.

**§333- Persons incapable of independent self-support and self-management.** (a) Except as provided in this section, no person shall be admitted to Waimano training school and hospital.

(b) Any person who is found to be incapable of independent self-support and self-management in the community or to be incapable of attaining independent self-support and self-management without proper treatment and training, and who is found to require institutional care, supervision, control, treatment, and training for his own welfare and who is found to be mentally retarded as set forth in section 333- may be voluntarily admitted to Waimano training school and hospital.

(c) If the person is a minor, the director may permit the admission of the minor to Waimano training school and hospital upon the written application of a parent, guardian, or other person or agency having legal custody; provided that no minor shall be entitled as a matter of right either to be admitted or to remain at the Waimano training school and hospital.

(d) If the person is an adult, the director may permit the admission of the adult to Waimano training school and hospital upon the written application of a court appointed guardian of his person if the guardian is specifically authorized to make such application in the court order appointing the guardian or any other order issued by the family court; provided that no adult shall be entitled as a matter of right either to be admitted or to remain at the Waimano training school and hospital.

**§333- Mentally retarded persons.** Mentally retarded persons, as referred to in this part are persons:

(1) Who are afflicted with:

(A) A deficiency of general mental development associated with chronic brain syndrome, or

(B) A deficiency of intelligence arising after birth, due to infection, trauma, or other disease process, or

(2) Who are afflicted with general intellectual subnormality not due to known organic factors.

**§333- Procedure for review of application for admission.** Upon receipt of an application for admission of any person to Waimano training school and hospital, the director shall cause the person to be observed and examined by a committee consisting of a physician, a clinical psychologist, and a social worker, all qualified by professional training and experience to make the findings and diagnosis required in sections 333- and 333- to determine if admission to Waimano train-

ing school and hospital is proper and if the person is in need of care or treatment at the hospital. The examination shall include the administration of psychological tests and psychological evaluations as an aid in the diagnosis of mental retardation and the certificate shall include the report of the results of the tests and evaluations as well as the statement of facts which are relied on in making the certification. If the committee certifies that admission is proper under sections 333- and 333- , and that the person is in need of care or treatment at Waimano training school and hospital, the director may cause the person to be admitted to Waimano training school and hospital if he determines that there is no suitable alternative available which would be less restrictive than admission.

**§333- Director as guardian.** (a) Notwithstanding any law to the contrary the family court may appoint the director as guardian of the person of any person if the court finds that:

- (1) The person is incapacitated as defined in section 560:5-101(2);
- (2) The person is mentally retarded;
- (3) The person may be reasonably expected to need treatment or care at Waimano training school and hospital or both; and
- (4) There is no other suitable guardian able or willing to serve as guardian of the person.

(b) The director, if so appointed, shall have all the powers and duties of a guardian of the person duly appointed by the court; provided that he shall not be liable in damages for any tortious act committed by the person.

**§333- Periodic review.** The director shall cause any person admitted to Waimano training school and hospital to be reexamined by a committee on the same terms and conditions as required in section 333- at least annually. Following such reexamination, the director shall discharge such persons from Waimano training school and hospital unless (1) the committee certifies that continuing admission is proper under sections 333- and 333- and that the person is in need of care or treatment at Waimano training school and hospital, and (2) the director redetermines that there is no suitable alternative available which would be less restrictive than admission.

**§333- Payments for care and treatment of persons committed; liability of persons admitted.** A parent, guardian of the property, or other person liable for the support of any person admitted to the Waimano training school and hospital shall pay such sums as may be determined by the department of health for the care and treatment of the person. The parent or guardian of the property of a minor admitted to the Waimano training school and hospital shall be liable for such care and treatment until the person admitted has reached the age of majority. The liability of a guardian of the property of a person under this section shall be limited to the estate of the ward and shall not be satisfied out of the individual assets of the guardian. Every person admitted to the Waimano training school and hospital and any property of his or his estate not exempt from execution, shall be liable for the expense of his care and treatment. The attorney general, whenever requested by the director, shall take such steps as may be appropriate, by suit if necessary, to enforce any liability established by this section. The attorney general may designate any appropriate county attorney to act in his behalf in any enforcement proceeding.

The department of health may, with the approval of the governor and from

the funds appropriated to the department for the care and treatment of mentally retarded persons, transfer from time to time to the department of social services and housing such amounts as may be requested by the department of social services and housing to match federal funds available under Title XIX of the Social Security Act to assist any indigent or medically indigent persons to pay for the care and treatment of any person admitted to the Waimano training school and hospital. The department of health may, with the approval of the governor, deposit any portion of the payments received by it into the appropriation from which the transfers were made.

**§333- Earnings and income of patients and wards.** The director shall prescribe, subject to chapter 91, rules necessary for the collection, conservation, and disposition of earnings or income of any person admitted to Waimano training school and hospital which are not subject to the control of a court appointed guardian of the estate of the patient or ward, upon such terms and conditions as the director may deem advisable.

**§333- Compensation for labor by persons admitted to Waimano training school and hospital.** Any person admitted to Waimano training school and hospital performing services for Waimano training school and hospital may be allowed compensation for the services, as shall be determined by the director. No person shall, because of his services for Waimano training school and hospital, be deemed to be an employee of the State."

SECTION 2. Persons committed to Waimano training school and hospital prior to the effective date of this Act shall remain wards of the director and he is hereby granted the power to voluntarily admit such persons to Waimano training school and hospital. These persons shall be deemed to have met the criteria for admission under section 1 of this Act. Any parent or other interested person may petition the family court for removal of the director as guardian of the person of any person committed to Waimano training school and hospital on the effective date of this Act, under the provisions of section 560:5-307, Hawaii Revised Statutes.

SECTION 3. Chapter 560, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§560- Special powers and duties of guardian of the person.** If the family court finds the ward is mentally retarded as defined in section 333- , and is in need of institutional care, supervision, control or treatment, and is incapable of independent support and self-management in the community, the court may grant the guardian of the person the power to voluntarily admit the person to Waimano training school and hospital under section 333- . If such power is granted to the guardian of the person, it must be so stated in the court's order."

SECTION 4. Part III, chapter 333, Hawaii Revised Statutes, is repealed.

SECTION 5. New statutory material is underscored.<sup>1</sup>

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

(Approved May 24, 1982.)

Notes

1. Edited pursuant to HRS §23G-16.5.



## ACT 114

H.B. NO. 2890-82

A Bill for an Act Relating to the Industrial Loan Company Guaranty Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 408A-29, Hawaii Revised Statutes, is amended to read as follows:

**"§408A-29 Premiums; limitation.** [(a)] Premiums, whether in the form of merchandise, credit or cash, given to thrift account holders by members shall be considered [interest for purposes of the limitation on interest set forth in section 408A-28(a).] an advertising or promotional expense rather than a payment of interest for purposes of the limitations on interest set forth in section 408A-28(a) if the member giving the premium complies with the applicable federal laws and regulations governing savings and loan associations regulated under chapter 407.

[(b) A member may give a thrift account holder a premium which shall not be considered interest for purposes of section 408A-28(a) if:

- (1) The premium is given to a thrift account holder only at the time of purchase of a thrift account with an original term not exceeding one year;
- (2) The premium is not given to any thrift account holder on a recurring basis; and
- (3) The value of the premium or, in the case of articles of merchandise, the wholesale cost (excluding shipping and packaging costs), does not exceed \$10, except that the value or wholesale cost may be not more than \$15 if the face amount of the thrift account is \$5,000 or more.]"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 24, 1982.)

## ACT 115

S.B. NO. 1447

A Bill for an Act Relating to Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to part II, subpart C, to be appropriately designated and to read as follows:

**"§88- Third application for retirement; withdrawal prohibited and retirement mandatory.** If a member:

- (1) Has submitted two separate written applications for service retirement but has withdrawn each of the applications prior to the dates of retirement specified in the applications; and
- (2) Submits a third written application for service retirement;

during the member's lifetime, the member shall not be allowed to withdraw the third application and shall be retired on the date specified in the third application."

SECTION 2. Section 88-73, Hawaii Revised Statutes, is amended to read as follows:

“§88-73 **Service retirement.** Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

- (1) Any member who has at least five years of credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, may retire upon his written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired. In the event of the death of a member after the date of the filing of the member's written application to retire, the designated beneficiary, otherwise the personal representative of the member's estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member's retirement.
- (2) Any member who has at least five years of credited service and who attains the age of seventy years shall be retired on the first day of the calendar month next succeeding that in which he attains such age; provided[,] a member of the legislature may continue or be restored to active membership in the system after the age of seventy years during the period such member is serving in his elective capacity.
- (3) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although he continues to fill his elective position.
- (4) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which he elected to retire, as provided by section 88-61(c), after attaining an allowance of [75] seventy-five per cent of his average final compensation shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but he shall not receive a retirement allowance until he leaves active service; however, upon his leaving active service he shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90 which post retirement allowances shall be computed from the date of the election as though he had left active service on that day.”

SECTION 3. Section 88-83, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Subsection 88-84 to the contrary notwithstanding, in the event of the death of a member [due to a terminal illness within thirty days] after the date of the filing of his written application to retire, the designated beneficiary, otherwise the personal representative of his estate, shall receive the allowance under the option

selected by the member which would have been payable had the member retired, and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of his retirement[]; provided that:

- (1) It is proved that the deceased member was not notified by his licensed attending physician of the terminal nature of his illness more than thirty days prior to his death; and
- (2) The licensed attending physician was aware of the terminal nature of the disease more than thirty days before the death of the member but deemed it advisable for the mental or physical well-being of his patient not to notify him of the terminal nature of the illness.
- (c) The board may prescribe the form of an affidavit to be filled out by the licensed attending physician; provided, that the form shall contain the following information and such other information as required by the board:
  - (1) The date when the licensed attending physician discovered the nature of the terminal illness;
  - (2) The terminal illness involved;
  - (3) The date when the member was notified of the nature of the terminal illness; and
  - (4) The date of death of the deceased member.

If the facts stated in the affidavit conform with all of the requirements of this section, and a licensed physician verifies the cause of death as being due to the terminal disease identified by the licensed attending physician in his affidavit, then the board shall provided benefits in accordance with the optional mode of retirement selected by the member prior to his death].

Any election of a mode of retirement shall be irrevocable.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 116**

S.B. NO. 2674-82

A Bill for an Act Relating to Training, Education, Training and Work Programs for Committed Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-4, Hawaii Revised Statutes, is amended to read as follows:

“**§353-4 Special powers and duties.** The director of social services [and housing] shall:

- (1) See to it that the duties of all officers and employees are efficiently and

faithfully performed;

- (2) Keep himself fully informed at all times concerning the health, care, and treatment of committed persons, the sanitary and other conditions affecting the correctional facilities under his jurisdiction, and all other matters within his jurisdiction;
- (3) Cause correctional facilities to be kept in a clean, healthful, and sanitary condition;
- (4) Inquire into and deal justly with all complaints made by committed persons relating to their food, clothing, accommodations, training, education, work, individual correctional plan or treatment;
- (5) Attend to the purchasing of all supplies, materials and equipment necessary for the proper maintenance and operation of correctional facilities and for the care and maintenance of committed persons, and see to the proper care, use, and disposition thereof, conformably with law;
- (6) Keep all books, accounts, and records and make such reports as may be required of him by law;
- (7). Negotiate with private organizations or agencies for participation and cooperation in programs which further the treatment, training, education and work of committed persons pursuant to law;
- (8) Initiate the individual prescribed correctional plan for committed persons including privileges, placement, treatment, training, education and work in accordance with law[.];
- (9) Exert every effort to insure that each inmate serving a sentence of imprisonment spends a maximum amount of time on the programs set forth in (7) and (8) above. This shall be voluntary if possible. If not, the director shall prescribe a program of involuntary work within the resources of the State and the capability of the inmate.

The director or his agent may transfer any committed person to or from any correctional facility under his jurisdiction. Nothing in this section shall be construed to prohibit the transfer of committed persons from any correctional facility to the Hawaii state hospital or other state insitutions as provided by law.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on January 1, 1983.

(Approved May 26, 1982.)

A Bill for an Act Relating to Fisheries Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to promote fisheries development by providing for the acquisition, reconditioning, and operation of a vessel as a fuel supply and catch storage facility. Fisheries development has been hampered by the lack of such a vessel. Thus, fishing vessels have been required to

utilize large amounts of time and fuel traveling between fishing grounds and fuel and catch storage/processing facilities.

**SECTION 2. Appropriation.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal years 1981-1982 and 1982-1983 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of land and natural resources. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1983, shall lapse into the general fund.

**SECTION 3.** (a) In addition to the powers granted to the department of land and natural resources by law, the department may:

- (1) With the approval of the governor, and without public bidding, enter into a special vessel lease or an amendment or supplement thereto whereby the department agrees with another person engaged in fishery and fishery-related operations to acquire, or remodel and furnish or equip a vessel solely for the use by such other person to a special vessel lease;
- (2) Perform and carry out the terms and provisions of any special vessel lease;
- (3) Notwithstanding section 103-7, Hawaii Revised Statutes, or any other law to the contrary, acquire, construct, or remodel and furnish or equip any vessel or accept the assignment of any contract therefor entered into by the other person to the special vessel lease;
- (4) Agree with the other person to the special vessel lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the vessel and the expenditure of moneys therefor shall be undertaken or supervised by such other person;
- (5) Contract for acquiring goods or services or leases under this Act and such contracts shall not be subject to section 103-22, Hawaii Revised Statutes, or any other law to the contrary.

(b) In addition to the conditions and terms set forth herein, any special vessel lease entered into by the department shall contain provisions obligating the lessee to the special vessel lease:

- (1) To pay to the department during the term of the special vessel lease, a rental or rentals at such time or times and in such amount or amounts as are equal to the fair market rental value of the vessel, regardless of whether the vessel is capable of being used or occupied or is being used or occupied by the lessee; and
- (2) To operate, maintain, and repair the vessel and pay the costs thereof or to pay to the department all costs of operation, maintenance, and repair of the vessel. The term and all renewals and extensions of the term of any special vessel lease (including any amendments or supplements thereto) shall not extend beyond the reasonable life of the subject vessel as determined by the department at the time of entering that special vessel lease. Any special vessel lease entered into by the department shall contain such other terms and conditions as the department deems advisable to

effectuate the purposes of this Act.

(c) The department shall expend no moneys for the purpose of this Act unless money is appropriated for such purposes in H.B. No. 2070<sup>1</sup> enacted in any form by the regular session of 1982.

SECTION 4. **Effective date.** This Act shall take effect upon its approval.

(Approved May 26, 1982.)

Note

1. Enacted as Act 264.

ACT 118

H.B. NO. 473

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is amended to read as follows:

**“§46-15.1 Housing; county powers.** (a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the Hawaii housing authority pursuant to chapter 359G[, as amended by any other act passed during the Regular Session of 1974,] insofar as such powers may be reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing low and moderate income housing; provided that no county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section; provided further that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the Hawaii housing authority, pursuant to section 359G-15. Such powers shall include the power, subject to applicable limitations, to:

- (1) Develop and construct dwelling units, alone or in partnership with developers;
- (2) Acquire necessary land by lease, purchase, exchange, or eminent domain;
- (3) Provide assistance and aid to a public agency or person in developing and constructing new housing and rehabilitating old housing for the elderly of low and moderate income, other persons of low and moderate income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;
- (4) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of low and moderate income;
- (5) Guarantee the top twenty-five per cent of the principal balance of real property mortgage loans, plus interest thereon, made to qualified borrowers by qualified lenders;
- (6) Enter into mortgage guarantee agreements with appropriate officials of any agency or instrumentality of the United States in order to induce such officials to commit to insure or insure mortgages under the pro-

visions of the National Housing Act, as amended;

- (7) Make a direct loan to any qualified buyer for the downpayment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of residential property;
- (8) Provide funds for a share, not to exceed fifty per cent of the principal amount of a loan made to a qualified borrower by a private lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of residential property; and
- (9) Sell or lease completed dwelling units.

For purposes of this section, a limitation is applicable to the extent that it may reasonably be construed to apply to a county.

(b) Any law to the contrary notwithstanding, any county may:

- (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section, including the satisfaction of any guarantees made by the county pursuant to this section;
- (2) Appropriate moneys of the county to carry out the purposes of this section;
- (3) Obtain insurance and guarantees from the State or the United States, or subsidies from either;
- (4) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
- (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low and moderate income; and
- (6) Adopt such rules pursuant to chapter 91 as are necessary to carry out the purposes of this section.

(c) The provisions of this section shall be construed liberally so as to most fully effectuate the purpose of this section in facilitating the development, construction, and provision of low- and moderate-income housing by the various counties. [Any law to the contrary notwithstanding, in no case shall the powers and duties conferred on the counties by this section be deemed to be altered by an amendment to chapter 359G effected subsequent to 1974.]

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved May 26, 1982.)

ACT 119

H.B. NO. 765

A Bill for an Act Relating to Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$30,000, or so much thereof as may be necessary, for fiscal year 1982-1983, for implementing costs in carrying out the purposes of chapter 88E,

ACT 120

Hawaii Revised Statutes. The sum appropriated shall be expended by the department of personnel services. Any sum so expended shall be reimbursed by the deferred compensation plan.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 26, 1982.)

ACT 120

H.B. NO. 804

A Bill for an Act Relating to Inheritance, Estate Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 236-11, Hawaii Revised Statutes, is amended to read: **“§236-11 Reciprocal provision.** The tax imposed by this chapter in respect of personal property (except tangible personal property having an actual situs in the State[]) and the beneficial interest in a land trust within the purview of chapter 558) shall not be payable (1) if the decedent at the time of his death was a resident of a state or territory of the United States, or of any foreign country, which at the time of his death did not impose a transfer tax or death tax of any character in respect of personal property of residents in the State (except tangible personal property having an actual situs in such state or territory or foreign country[]) and a beneficial interest in land trusts under chapter 558); or (2) if the laws of the state, territory, or country of residence of the decedent at the time of his death contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect of personal property (except tangible personal property having an actual situs therein[]) and a beneficial interest in land trusts under chapter 558); provided the state, territory, or country of residence of such nonresident allowed a similar exemption to residents of state, territory, or country of residence of such decedent. For the purposes of this section the District of Columbia and Puerto Rico shall be considered territories of the United States.

The terms “foreign country” and “country” as used herein mean both any foreign country and any political subdivision thereof and either of them in which the decedent was domiciled at the time of his death. For the purposes of this section, intangible personal property means incorporeal property, including money, deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, and evidences of debt[.]; but does not include a beneficial interest in land trusts under chapter 558.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1981.

(Approved May 26, 1982.)

ACT 121

H.B. NO. 1970-82

A Bill for an Act Relating to Public Demands.



*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide funds (1) to complete the inventory of, (2) to study the numerous legal and fiscal issues relating to the use of and, (3) to study the use and distribution of revenues from ceded lands.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1982-1983, to carry out the purposes of this Act. The sum appropriated shall be expended by the office of the auditor.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved May 26 1982.)

ACT 122

H.B. NO. 2057-82

A Bill for an Act Relating to Drugs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 328, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to part I to be appropriately designated and to read as follows:

“§328- Principal labeler responsibility under recall of drug. Whenever the manufacturer of a drug voluntarily recalls the drug or the federal Food and Drug Administration or a court orders the recall of a drug, the principal labeler of the drug shall remove the drug from all pharmacies, prescriber offices, and health care facilities.”

2. Section 328-2 is amended by adding a new definition of “principal labeler” to be appropriately inserted and to read as follows:

““Principal labeler” means the manufacturer, packer, or distributor whose name is on the package which contains the finished drug and is distributed to the dispenser. If more than one name is on the package, the principal labeler shall be the manufacturer, packer, or distributor whose name is on the package and who had possession of the package immediately before the dispenser of the drug.”

3. Section 328-91 is amended by adding a new definition to be appropriately inserted and to read as follows:

““Agent” means a person under the direct supervision of a dispenser, acting in the dispenser’s presence.”

4. Section 328-92 is amended by amending subsections (a) and (b) to read as follows:

“(a) A dispenser or his authorized agent [filling a prescription for a drug product prescribed by its trade or brand name] shall:

- (1) Offer to the consumer substitutable and lower cost equivalent drug products from the formulary, adopted pursuant to section 328-96;
- (2) Inform the consumer of the retail price difference between the brand name drug product and the substitutable drug product; and
- (3) Inform the consumer on his or her right to refuse substitution.

The dispenser shall substitute if the consumer consents, [and] the prescriber does

not prohibit substitution under subsection (b), and the price of the substitute equivalent drug product is less than the price of the prescribed drug product. The dispenser shall not substitute if the consumer refuses.

(b) [The] In filling initial or original prescriptions, the dispenser shall not substitute an equivalent drug product if the prescriber, and only the prescriber, handwrites "do not substitute" on the written prescription. The dispenser shall not substitute an equivalent drug product if the prescription is ordered orally [,] unless the oral prescription is a refill of a prior written prescription for which selection of an equivalent drug product was permitted. The designation of "do not substitute" and the physician's signature shall not be preprinted or stamped on the prescription.] and the prescriber or authorized employee of the prescriber orally orders "do not substitute".

In refilling prior written prescriptions, the dispenser shall not substitute an equivalent drug product if the oral prescription is a refill of a prior written prescription for which selection of an equivalent drug product was not permitted; provided that if the prior written prescription permitted the selection of an equivalent drug product, such substitution may be allowed. However, the dispenser shall not substitute an equivalent drug product if a refill of a prescription is ordered orally and the prescriber or authorized employee of the prescriber orally orders "do not substitute".

The designation of "do not substitute" and the physician's signature shall not be preprinted or stamped on the prescription."

5. Section 328-93 is amended to read as follows:

"~~[[§328-93]]~~ **Prescription label.** Every dispenser shall indicate on the label affixed to the immediate container in which the drug product is sold or dispensed the name and strength of the drug product and [its manufacturer] the name or commonly accepted abbreviation of the principal labeler, and the statement "Substituted for \_\_\_\_\_ (Brand name of drug product prescribed)" unless the prescriber specifically states otherwise. The dispenser shall record on the prescription form the brand name or the name or commonly accepted abbreviation of the [manufacturer] principal labeler of the drug product dispensed."

6. Section 328-96 is amended by amending subsection (a) to read as follows:

"(a) The board shall adopt rules, pursuant to chapter 91, for the establishment and maintenance of a state drug formulary of equivalent drug products, and to effectuate the purpose of this part. The formulary shall list all drug products that the Commissioner of Food and Drugs, United States Food and Drug Administration, has approved as safe and effective, and has determined to be therapeutically equivalent. [The formulary shall also list all drug products that (1) were not subject to premarketing approval for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act; (2) are manufactured by firms meeting the requirements of that Act; (3) are subject to pharmacopoeial standards adequate to assure product quality; and (4) have been determined by the Commissioner of Food and Drugs to meet any other requirements necessary to assure therapeutic equivalence.] The formulary may list additional drug products that are determined by the board to meet requirements adequate to assure product quality and therapeutic equivalence. The formulary may delete approved drugs upon a finding that product quality or therapeutic equivalency or bioequivalency, as appropriate, is not adequately

assured.”

7. Section 328-96 is amended by amending subsection (c) to read as follows:

“(c) The department of health shall provide for distribution of the formulary and revisions to all dispensers and prescribers licensed and practicing in this State and to other appropriate individuals. The department of health may establish fees to be charged to persons who receive the formulary and revisions. The amounts of the fees charged for the formulary and revisions shall be approximately the same as the costs of producing and distributing the formulary and revisions.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

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

(Approved May 26, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 123**

H.B. NO. 2215-82

A Bill for an Act Relating to Domestic Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 585, Hawaii Revised Statutes, is repealed.

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

**“CHAPTER  
DOMESTIC ABUSE PROTECTIVE ORDERS**

§ -1 **Definitions.** As used in this chapter:

“Domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, between family or household members; or
- (2) Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member.

“Family or household members” means spouses or former spouses, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

§ -2 **Court jurisdiction.** An application for relief under this chapter may be filed in any family court in the circuit in which the petitioner resides. Actions under this chapter shall be given docket priorities by the court.

§ -3 **Order for protection.** (a) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(b) A petition for relief under this chapter may be made by any family or

household member on his or her own behalf or on behalf of minor family or household members.

(c) A petition for relief shall be in writing and upon forms provided by the court and shall allege that a recent past act or acts of abuse have occurred, or that the threats of abuse make it probable that acts of abuse may be imminent; and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(d) The family court shall designate an employee or appropriate non-judicial agency to assist the person in completing the petition.

§ -4 **Temporary restraining order.** Upon petition to a family court judge, a temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time such order is granted, is a family or household member as defined in section -1. The family court judge may issue the ex parte temporary restraining order orally, but shall reduce the order to writing by the close of the next court day following the application. The order shall state that there is probable cause to believe that a recent past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order shall further state that the temporary restraining order is necessary for the purpose of preventing acts of abuse, or a recurrence of actual domestic abuse, and assuring a period of separation of the parties involved. The order shall describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order, and may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the children or other relatives of the applicant residing with the applicant at the time of the granting of the order. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them.

§ -5 **Period of order; hearing.** A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, not to exceed thirty days. On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court shall, after giving due notice to all parties, hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing. All parties shall be present at the hearing and may be represented by counsel. If after hearing all relevant evidence, the court finds that a further period of separation of the parties is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed ninety days from the date of its initial order.

The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders estab-

lishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services.

§ -6 **Service of order.** Any order issued under this chapter shall be personally served upon the respondent.

§ -7 **Assistance of police in service or execution.** When an order is issued under this chapter upon request of the petitioner, the court may order the police department to serve the order and related documents upon respondent and to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence.

§ -8 **Right to apply for relief.** (a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

§ -9 **Modification of order.** Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

§ -10 **Copy to law enforcement agency.** (a) Upon the request of the petitioner, any order for protection granted pursuant to this chapter shall be forwarded by the clerk of the court within twenty-four hours to the county police department.

(b) Each county police department shall make available to other law enforcement officers in the same county, through a system for verification, information as to the existence and status of any order for protection issued pursuant to this chapter.

§ -11 **Violation of an order for protection.** Whenever an order for protection is granted pursuant to this chapter and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. All remedies for the enforcement of judgments shall apply to this chapter."

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

(Approved May 26, 1982.)

ACT 124

H.B. NO. 2606-82

A Bill for an Act Relating to Committed Persons, Furlough, Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-22, Hawaii Revised Statutes, is amended to read as follows:

"§358-22 **Establishment of conditional release [centers] centers for committed persons.** (a) The director of social services may establish and operate facilities to be known as conditional release centers, either operated separately, or as part of community correctional centers.

(b) The purpose of such facilities is to provide housing, meals, supervision, guidance, furloughs, and other correctional programs for persons committed to the department of social services and housing and to give committed persons, in

selected cases, a chance to begin adjustment to life in a free society and to serve as a test of an individual's fitness for release on parole.

(c) The department shall notify the county prosecutors and police chiefs whenever a prisoner is admitted to participate in a work furlough program, conditional release program, or other similar programs and that such notification shall be made in writing to the county prosecutors and police chiefs listing the conditions of such work furlough programs, conditional releases or such similar programs thirty days prior to the commencement of the work furlough program, conditional release or other such program."

SECTION 2. Section 353-22.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director or his agent may grant furloughs to committed persons with a minimum or lower security classification in any correctional facility of the department for the purpose of employment, social reorientation, education, [or] training, or any other valid purpose as determined by the director. Special out-of-state furloughs may be granted to those already otherwise furloughed, at no cost to the State, when death or critical illness or injury to the committed person's immediate family occurs. Any committed person who is engaged in private employment, by contract or otherwise, not under the immediate custody of the State shall not be considered an agent or employee of the State. Any moneys earned from employment by such person shall be used to satisfy a restitution order and to reimburse the State for the cost of room and board. If any earned moneys remain after these expenses have been paid, that amount shall be held in an individual account for the committed person.

When an inmate is granted a special out-of-state furlough, the director shall inform the authorities of the state to which he is to be furloughed of his arrival."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1982.)

ACT 125

H.B. NO. 2674-82

A Bill for an Act Relating to Campaign Spending.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-209, Hawaii Revised Statutes, is amended to read as follows:

**"§11-209 Campaign expenditures; limits as to amounts.** (a) From January 1 of the year of a primary, special primary, special, or general election through the day of the special or general election, the total expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures made or authorized by the candidate himself and all campaign treasurers and committees in his behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered

to vote for each respective class of offices:

- (1) For the office of governor - \$1.25;
  - (2) For the office of lieutenant governor - 70 cents;
  - (3) For the office of mayor - \$1;
  - (4) For the offices of state senator, state representative, county council member, and prosecuting attorney - 70 cents; and
  - (5) For the offices of the board of education and all other offices - 10 cents.
- (b) An additional [five] ten per cent increase shall be added to the base amounts allowable under subsection (a) starting in 1979 and each year thereafter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 26, 1982.)

## ACT 126

H.B. NO. 2813-82

A Bill for an Act Relating to Coastal Zone Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205A-22, Hawaii Revised Statutes, is amended to read as follows:

"**§205A-22 Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Applicant" means any individual, organization, partnership, or corporation, including any utility, and any agency of government.
- (2) "Authority" means the county planning commission, except in counties where the county planning commission is advisory only, in which case "authority" means the county council or such body as the council may by ordinance designate. The authority may, as appropriate, delegate the responsibility for administering this part.
- (3) "Development" means any of the uses, activities, or operations on land; in or under water, within the special management area that are included below, but not those uses, activities, or operations excluded in paragraph (B):
  - (A) "Development" includes the following:
    - (i) The placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
    - (ii) Grading, removing, dredging, mining, or extraction of any materials;
    - (iii) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
    - (iv) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
    - (v) Construction, reconstruction, demolition, or alteration of the size of any structure.

- (B) "Development" does not include the following:
- (i) Construction of a single-family residence that is not part of a larger development;
  - (ii) Repair or maintenance of roads and highways within existing rights-of-way;
  - (iii) Routine maintenance dredging of existing streams, channels, and drainage ways;
  - (iv) The repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;
  - (v) Zoning variances, except for height, density, parking, and shoreline setback;
  - (vi) Repair, maintenance, or interior alterations to existing structures;
  - (vii) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;
  - (viii) The use of any land for the purpose of cultivating, planting, growing, and harvesting of plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes subject to review by the authority in accordance with paragraph (C);
  - (ix) The transfer of title to land;
  - (x) The creation or termination of easements, covenants, or other rights in structures or land; and
  - (xi) The subdivision of land into lots greater than twenty acres in size.
- (C) Whenever the authority finds that any use, activity, or operation excluded in paragraph (B) is or may become part of a larger project, the cumulative impact of which may have a significant environmental or ecological effect on the special management area, that use, activity, or operation shall be defined as "development" for the purpose of this part.
- (4) "Special management area" means the land extending inland from the shoreline as delineated on the maps filed with the authority as of June 8, 1977 or as amended pursuant to section 205A-23.
  - (5) "Special management area emergency permit" means an action by the authority authorizing development in cases of emergency requiring immediate action to prevent substantial physical harm to persons or property.
  - (6) "Special management area minor permit" means an action by the authority authorizing development, [the total cost or fair market value] valuation of which is not in excess of [\$25,000] \$65,000 and which has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects.



- (7) "Special management area use permit" means an action by the authority authorizing development, the [total cost or fair market value] valuation of which exceeds [\$25,000] \$65,000 or which may have substantial adverse environmental or ecological effect, taking into account potential cumulative effects.
- (8) "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aquaduct, telephone line, and electrical power transmission and distribution line.
- (9) "Valuation" shall be determined by the authority and means the estimated cost to replace the structure in kind, based on current replacement costs, or in the cases of other development, as defined in paragraph (A) above, the fair market value of the development."

SECTION 2. Be it further provided that the department of planning and economic development, in consultation with the authorities, is directed to conduct a statewide survey and overall assessment as to the manner in which Chapter 205A, Hawaii Revised Statutes, and the counties' implementation thereof has affected development projects impacted by the law. The survey and assessment should also include a review of the following: 1) future funding sources for the administration of the program, 2) the relationship between Chapter 205A, Hawaii Revised Statutes, and Chapter 343, Hawaii Revised Statutes, and 3) a review of special management area minor permits issued to date so as to evaluate the effectiveness of total cost of fair market value figures originally established by Section 205A-22, Hawaii Revised Statutes, and to recommend amended criteria, as appropriate.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1982.)

ACT 127

S.B. NO. 65

A Bill for an Act Relating to Land Trusts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 558-4, Hawaii Revised Statutes, is amended to read as follows:

"[[§558-4]] Creation of trust, powers of trustee. Any recorded instrument transferring any interest in real property in this State, including but not limited to, leasehold and mortgagee's interests, to any person, corporation, bank, or trust company, qualified to act as a trustee in this State, whether or not reference is made in such recorded instrument to any separate unrecorded collateral declarations or agreements, shall be effective to vest in the trustee [full rights of ownership] legal and equitable title over the real property or interest therein, with full power and authority as granted and provided in the recorded instrument to deal in and with the property or interest therein or any part thereof. Any trust authorized pursuant to this chapter shall be valid notwithstanding the fact that the recorded instrument

fails to state the duties imposed upon the trustee.”

SECTION 2. Section 558-8, Hawaii Revised Statutes, is amended to read as follows:

“[[§558-8]] Disclosure of beneficiaries. (a) Any trust created hereunder shall be invalid unless the recorded conveyance document transferring title to the trustee discloses the name and pro rata interest of each beneficiary of [said] such trust.

(b) Upon service of a complaint, or similar pleading, in federal or state court to which the trustee is required to respond, the trustee shall disclose in the response the name of every beneficiary with a present interest in trust property which is a subject of the action. This subsection shall be liberally construed to require identification of the actual parties to the controversy.

(c) Upon receipt of a notice of violation of any ordinance, rule, regulation, or law relating to real property held in trust, the trustee shall disclose to the State, political subdivision, or agency giving notice or which is primarily responsible for enforcement of such ordinance, rule, regulation, or law, the identity of every beneficiary who has an interest in the trust property. This subsection shall be liberally construed to require identification of the actual parties who are being notified of the violation.

(d) As part of any contract relating to the ownership or use of real property which is the subject of a land trust and is entered into by and between the State or any local governmental unit or any agency of either and a trustee under a land trust, the trustee shall disclose the identity of every beneficiary of the land trust. This subsection shall be liberally construed to require identification of the actual parties benefiting from a transaction with a governmental unit or agency.

(e) Whenever any trustee or beneficiary of a land trust applies or supports an application to the State or any local governmental unit or any agency of either for any benefit, authorization, license, land use or permit relating to the land which is the subject of the land trust, such application shall identify every beneficiary of the land trust. This subsection shall be liberally construed to require identification of the actual parties benefiting from the actions of governmental units and agencies.

(f) A trustee who discloses the identity of a beneficiary pursuant to law shall not be liable in any civil action as a result of the disclosure.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1982.)

A Bill for an Act Relating to Job-Sharing in the Department of Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 150, section 2, Session Laws of Hawaii 1978, as amended by Act 134, Session Laws of Hawaii 1980, and Act 105, Session Laws of Hawaii,

Regular Session of 1981, is amended to read as follows:

“SECTION 2. There is established a [five-year] six-year job-sharing pilot project to be conducted by the department of education for the 1978-79, 1979-80, [1980-1981,] 1980-81, 1981-82, [and] 1982-83, and 1983-84 academic years; provided that the department of education shall not implement the pilot project without first carefully developing its plans, procedures, and guidelines and shall initiate the project to the extent practicable during the 1978-79 academic year[.]; and provided further that the job-sharing teams composed of two tenured employees shall be tested as a trial project during the 1982-83 and 1983-84 academic years. Job-sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position shall constitute two job-sharing positions. The department of education shall devote no more than [one] two hundred full-time, permanent positions to job-sharing, pursuant to this Act[.]; provided that the positions composed of job-sharing teams of two tenured employees shall not exceed fifty. The department shall administer the pilot project established by this Act, and shall, in consultation with the representatives of the appropriate bargaining units adopt guidelines for the implementation of this Act.”

SECTION 2. Act 150, section 3, Session Laws of Hawaii 1978, as amended by Act 134, Session Laws of Hawaii 1980, and Act 105, Session Laws of Hawaii, Regular Session 1981, is amended to read as follows:

“SECTION 3. The following shall constitute general requirements of the pilot project, and shall be followed in the implementation of this Act:

- (1) The superintendent of education shall announce the pilot project to all full-time, tenured, certificated personnel of the department excluding educational officers and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The superintendent shall, in consultation with the recognized employee bargaining units, formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who may request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the superintendent. Those who qualify shall then be interviewed by a personnel officer of the department. Participation shall be for school years 1978-79, 1979-80, 1980-81, 1981-82, [or] 1982-83, or 1983-84, except as provided in paragraph [(6)] (7) of this section.
- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the superintendent shall for the purposes of this Act, convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other which shall be filled by hiring under this Act[.] or by another tenured, certificated

employee of the department, excluding any educational officer, within the limits set by this Act.

- (4) Persons hired to fill job-sharing positions shall be recruited through this Act; provided that any person hired for a job-sharing position shall possess the minimum requirements of the full-time position which was converted to job-sharing positions under this Act.
- (5) Job-sharing is, for the purpose of this Act, the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per week, and with each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees. Benefits that can be divided in one-half, such as number of days of sick leave, and are considered to be an equitable share when divided, shall be computed on that basis. Benefits that cannot be so divided, such as eligibility for membership in the public employees health plan shall be given to the job-sharers without such division, notwithstanding any contrary provision of chapter 87 or 88, Hawaii Revised Statutes. The newly hired job-sharer shall be excluded from collective bargaining as provided under chapter 89, Hawaii Revised Statutes.

The full-time permanent employee shall not lose membership in an employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job-sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job-sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of the law to the contrary notwithstanding. Job-sharers shall be covered under chapter 386, Hawaii Revised Statutes, and the applicable provisions of chapter 383, Hawaii Revised Statutes. Service credit for tenured teachers participating in the pilot project under this Act shall be given on the same basis as that for full-time employees. Nothing in this Act shall be construed, however, to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing pilot project. The granting of tenure shall be under applicable statutes. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. In a reduction-in-force procedure, consideration of a job-sharer's tenure rights shall be on the same basis as that of a full-time employee. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Tenured employees sharing full-time positions with other tenured employees shall not be required to relinquish their duty-free period. Such a job-sharing team shall submit to their principal a job-sharing proposal which preserves their duty-free period and which meets the

educational needs of their students. Where the job-sharing team cannot reach a reasonable scheduling agreement, the team may agree to waive their contractual rights by executing a contract waiver.

- [(6)] (7) Participation in the pilot project shall require the commitment on the part of all parties to a contractual agreement; provided that the employee shall be given the option to contract for one or more years.
- [(7)] (8) No job-sharing position created under this Act and committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the department of education on the part of any person shall be filled through recruitment of another person pursuant to this Act.
- [(8)] (9) Upon the termination of contractual agreements under this Act, all job-sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the pilot project shall be entitled to resume their positions without loss of previous tenure, or other employee rights."

SECTION 3. Section 4, Act 150, Session Laws of Hawaii 1978, as amended by Act 105, Session Laws of Hawaii, Regular Session 1981, is amended to read as follows:

"SECTION 4. The office of the legislative auditor shall monitor and evaluate [the pilot project, with particular regard to the efficacy of the job sharing concept, and shall evaluate factors such as turnover rates, absenteeism, productivity, morale, and demographic factors such as ethnic, sex, and age composition of participants, and other pertinent data. The office of the legislative auditor shall also among other analyses identify factors which facilitated or made more difficult the implementation of this Act. The office of the legislative auditor shall submit status reports on its findings to the regular legislative sessions of 1979, 1980, and 1981 and may report on its findings and recommendations to the legislative session of 1982.] job sharing by teams of two tenured employees and shall report to the legislature on its findings and recommendations by January 1984."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1982.)

ACT 129

S.B. NO. 2759-82

A Bill for an Act Relating to the Compensation of Public Officers and Employees and Making an Appropriation Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended as follows:

1. Section 26-51 is amended to read:

“**§26-51 Governor; lieutenant governor.** Effective July 1, [1975,] 1981, the salary of the governor of the State shall be [~~\$46,000~~] \$55,000 a year. Effective [January] July 1, [1976,] 1982, the salary of the governor of the State shall be [~~\$50,000~~] \$59,400 a year. Effective July 1, [1975,] 1981, the salary of the lieutenant governor shall be [~~\$41,400~~] \$49,500 a year. Effective [January] July 1, [1976,] 1982, the salary of the lieutenant governor shall be [~~\$45,000~~] \$53,460 a year.”

2. Section 26-52 is amended to read:

“**§26-52 Department heads and executive officers.** The salaries of the following state officers [are fixed at the following annual rates:] shall be as follows:

- (1) [The salary of the superintendent of education shall be set by the board of education.] Effective July 1, [1975,] 1981, the salary of the superintendent of education shall be [not more than ~~\$39,100~~] \$46,750 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than ~~\$42,500~~] \$50,490 a year.
- (2) [The salary of the president of the University of Hawaii shall be set by the board of regents.] Effective July 1, [1975,] 1981, the salary of the president of the University of Hawaii shall be [not more than ~~\$41,400~~] \$49,500 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than ~~\$45,000~~] \$53,460 a year.
- (3) [The] Effective July 1, 1981, the salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, Hawaiian home lands, health, labor and industrial relations, land and natural resources, personnel services, planning and economic development, regulatory agencies, social services and housing, taxation, and transportation shall be [set by the appointing authority. Effective July 1, 1975, their salaries shall be not more than ~~\$39,100~~] \$46,750 a year. Effective [January] July 1, [1976,] 1982, their salaries shall be [not more than ~~\$42,500~~] \$50,490 a year.
- (4) Effective July 1, [1975,] 1981, the salary of the adjutant general shall be [not more than ~~\$39,100~~] \$46,750 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than ~~\$42,500~~] \$50,490 a year. If the [maximum rate] salary is in conflict with the pay and allowance fixed by the tables of the regular army of the United States, the latter shall prevail.”

3. Section 26-53 is amended to read:

“**§26-53 Deputies or assistants to department heads.** [The salaries of first and second deputies or first and second assistants to the head of any department of the State shall be set by the director or executive officer concerned.] Effective July 1, [1975,] 1981, the salaries of first deputies or first assistants to the head of any department of the State shall be [not more than ~~\$36,800~~] \$44,000 a year, and the salaries of second deputies or second assistants shall be [not more than ~~\$34,500~~] \$41,250 a year. Effective [January] July 1, [1976,] 1982, the salaries of first deputies or first assistants to the head of any department of the State shall be [not more than ~~\$40,000~~] \$47,520 a year, and the salaries of second deputies or second assistants shall be [not more than ~~\$37,500~~] \$44,550 a year.”

4. Section 26-54 is amended to read:

**"§26-54 Administrative director of the State.** [The salary of the administrative director of the State shall be set by the governor.] Effective July 1, [1975,] 1981, the salary of the administrative director of the State shall be [not more than \$39,100] \$46,750 a year. Effective [January] July 1, [1976,] 1982, the salary of the administrative director of the State shall be [not more than \$42,500] \$50,490 a year."

SECTION 2. Section 29-1, Hawaii Revised Statutes, is amended to read as follows:

**"§29-1 Establishment of office.** There shall be in Washington, District of Columbia, a Hawaii office of federal programs coordinator. The office shall be headed by a coordinator who shall be appointed and removed by the governor, not subject to chapters 76, 77, and 89. [The salary of the federal programs coordinator shall be set by the governor.] Effective July 1, [1975,] 1981, the salary of the federal programs coordinator shall be [not more than \$29,900] \$35,750 a year. Effective [January] July 1, [1976,] 1982, the salary shall be [not more than \$32,500] \$38,610 a year. The coordinator shall appoint necessary staff, within available appropriations, not subject to chapters 76, 77, and 89. [The coordinator and his staff shall be included in any benefit program generally applicable to the officers and employees of the State.]

The office is placed within the department of budget and finance for administrative purposes."

SECTION 3. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created a Hawaii public employment relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairman, shall be representative of the public. All members shall be appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for four, five, and six years respectively as designated by the governor at the time of appointments. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. [The] Effective July 1, 1981, the<sup>1</sup> salary of the chairman of the board shall be [the same as the salary of a circuit court judge. Each] \$46,750 a year, and the salary of each of the other members shall be [paid a salary at a rate of ninety-five per cent of the chairman's salary.] \$44,413 a year. Effective July 1, 1982, the salary of the chairman of the board shall be \$47,520 a year, and the salary of each of the other

members shall be \$44,550 a year. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Three members of the board, consisting of the chairman, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum. Any vacancy in the board, shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairman of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. The provisions of section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 77. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies and to the public management committee."

SECTION 4. Section 89A-1, Hawaii Revised Statutes, is amended to read as follows:

**"§89A-1 Office of collective bargaining in the state government established.**

There shall be established an office of collective bargaining in the office of the governor to assist the governor in negotiating with and entering into written agreements between the public employers and the exclusive representatives on matters of wages, hours, and other negotiable terms and conditions of employment.

The position of chief negotiator for the State is hereby established to head the office. The chief negotiator shall be experienced in labor relations. The governor shall appoint and remove the chief negotiator, deputy negotiators, and researcher, who shall not be subject to chapters 76 and 77. [The] Effective July 1, 1981, the salary of the chief negotiator shall be [set by the governor and shall not exceed the salaries of department heads as prescribed in section 26-52(3).] \$46,750 a year.



Effective July 1, 1982, the salary of the chief negotiator shall be \$47,520 a year. The chief negotiator, deputy negotiators, and researcher shall be included in any benefit program generally applicable to the officers and employees of the State. All other employees shall be appointed in accordance with chapters 76 and 77. The chief negotiator shall serve as one of the governor's designated representatives as set forth in section 89-6(b)."

SECTION 5. Section 109-2, Hawaii Revised Statutes, is amended to read as follows:

"**§109-2 Stadium authority; powers and duties.** The powers and duties of the stadium authority shall be as follows:

- (1) To maintain, operate, and manage the stadium and related facilities.
- (2) To prescribe and collect rents, fees, and charges for the use or enjoyment of the stadium or any of its facilities.
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental, or convenient to carry out and effectuate the purposes and provisions of this chapter.
- (4) To make, amend, and repeal in accordance with chapter 91 such rules [and regulations] as it may deem necessary.
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76 and 77 [and shall receive such salary as the authority may provide; except that the manager's salary shall not exceed the maximum salary provided for department heads of the State and the deputy manager's salary shall not be more than ninety per cent of the manager's salary]. Effective July 1, 1981, the salary of the manager shall be \$46,750 a year and, effective July 1, 1982, the salary of the manager shall be \$47,520 a year. Effective July 1, 1981, the salary of the deputy manager shall be \$42,075 a year and, effective July 1, 1982, the salary of the deputy manager shall be \$44,550 a year. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend, and discharge such other employees, subordinates, and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager and deputy manager, all appointments, suspensions, or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77."

SECTION 6. Section 121-8, Hawaii Revised Statutes, is amended to read as follows:

"**§121-8 Adjutant general; rank, [compensation.] salary.** The adjutant general shall have the grade of a general officer. [There shall be paid monthly by the

State to] The<sup>1A</sup> salary of the adjutant general[, the pay and allowances as fixed by federal law for a member of the armed forces of the United States of like grade and length of service.] shall be subject to section 26-52.”

SECTION 6A. Section 164-1, Hawaii Revised Statutes, is amended to read as follows:

**“§164-1 Establishment of the governor’s agriculture coordinating committee.** There is established, in the governor’s office for administrative purposes, the governor’s agriculture coordinating committee, whose membership shall include the special assistant for agriculture, office of the governor, who shall be the chairperson, the director of planning and economic development, the chairperson of the board of land and natural resources, the chairperson of the board of agriculture, the director of transportation, the chairperson of the Hawaiian Homes Commission, the dean of the college of tropical agriculture[,] and human resources, and three farmers, one of whom shall be a representative of a recognized nonprofit association of farmers. All members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of the duties and responsibilities of the committee. Effective July 1, 1981, the salary of the special assistant to the governor for agriculture shall be \$26,466. Effective July 1, 1982, the salary of the special assistant to the governor for agriculture shall be \$28,584.”

SECTION 7. Section 218-2, Hawaii Revised Statutes, is amended to read as follows:

**“§218-2 Establishment of marine affairs coordinator.** The position of marine affairs coordinator is established in the department of planning and economic development for administrative purposes. The governor shall appoint and remove the coordinator, who shall not be subject to chapters 76, 77, and 89. [The salary of the coordinator shall be set by the governor. Effective July 1, 1975, the salary shall be not more than \$29,900 a year. Effective January 1, 1976, the salary shall be not more than \$32,500 a year. The coordinator shall be included in any benefit program generally applicable to the officers and employees of the State.]”

SECTION 8. Section 269-2, Hawaii Revised Statutes, is amended to read as follows:

**“§269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; persons having interest in public utilities.** There shall be a public utilities commission of three members, to be called commissioners, and who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. The governor shall designate a member to be chairman of the commission. Each member shall hold office until his successor is appointed and qualified. Section 26-34 shall not be applicable insofar as its relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other

similar fields. The commissioners shall devote full time to their duties as members of the commission and no commissioner shall hold any other public office or other employment during his term of office. No person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner.

[The] Effective July 1, 1981, the chairman of the commission shall be paid a salary [the same as the salary of circuit court judges. Each] of \$46,750 a year, and each of the other commissioners shall be paid a salary [at the rate of ninety-five per cent of the chairman's salary.] of \$44,413 a year. Effective July 1, 1982, the chairman shall be paid a salary of \$47,520 a year, and each of the other commissioners shall be paid a salary of \$44,550 a year. The commissioners shall be exempt from chapters 76 and 77 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87.

The commission is placed within the department of budget and finance for administrative purposes."

SECTION 9. Section 297-31.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§]297-31.5[)] Salary[:]; assistant superintendents, district superintendents, deputy district superintendents. The salaries of assistant superintendents, district superintendents, and deputy district superintendents shall be set by the board. Effective July 1, [1975,] 1981, the salaries of assistant superintendents and district superintendents shall be not more than [~~\$34,500~~] \$41,250 a year and the salaries of deputy district superintendents shall be not more than [~~\$32,200~~] \$38,500 a year. Effective [January] July 1, [1976,] 1982, the salaries of assistant superintendents and district superintendents shall be not more than [~~\$37,500~~] \$44,550 a year, and the salaries of deputy district superintendents shall be not more than [~~\$35,000~~] \$41,580 a year."

SECTION 10. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

"§312-2.1 Appointment of state librarian; duties; salary. The state librarian shall be appointed by the board of education, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. Notwithstanding any other law to the contrary, the salary of the state librarian shall be set by the board of education [and shall be the same as that of an assistant superintendent of education]. Effective July 1, 1981, the salary shall not exceed \$41,250 a year. Effective July 1, 1982, the salary shall not exceed \$44,550 a year."

SECTION 11. Section 314-10, Hawaii Revised Statutes, is amended to read as follows:

"§314-10 Executive director and staff. The board shall appoint an executive director subject to the approval of the governor who shall not be subject to chapters 76, 77, and 89. [The board shall determine the salary of the executive director which, effective] Effective July 1, [1975,] 1981, the salary of the executive director shall [not] be [more than \$29,900] \$35,750 a year [and effective January]. Effective

July 1, [1976,] 1982, the salary of the executive director shall [not] be [more than \$32,500] \$38,610 a year."

SECTION 12. Section 349-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The head of this office shall be known as the director of the executive office on aging, hereinafter referred to as director. The director shall have professional training in the field of social work, education, public health, and other related fields; extensive direct experience in programs or services related to the elderly; and recent experience in a supervisory, consultative, or administrative position. The director shall be nominated and appointed by the governor without regard to chapters 76 and 77. [The] Effective July 1, 1981, the salary of the director shall be [ \$32,500 ] \$41,250 annually[, effective]. Effective July 1, [1976, and \$37,500] 1982, the salary of the director shall be \$44,550 annually[, effective January 1, 1977]. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 13. Section 353-63, Hawaii Revised Statutes, is amended to read as follows:

**"§353-63 Service of Hawaii paroling authority members compensation; expenses.** The chairman of the Hawaii paroling authority shall serve on a full-time basis. The other two members shall serve on a part-time basis. [The] Effective July 1, 1981, the annual salary of the chairman shall be [ \$37,500. ] \$41,250. The compensation of each of the members shall be eighty per cent of the hourly wage paid the chairman. Effective July 1, 1982, the annual salary of the chairman shall be \$44,550. For each hour engaged in the official duties of the authority from July 1, 1981 to June 30, 1982, each member of the authority other than the chairman shall be paid an hourly wage at the percentage rate specified in this section based on the hourly wage paid the chairman effective July 1, 1981. Effective July 1, 1982, each member other than the chairman shall be paid at the percentage rate specified in this section based on the hourly wage paid the chairman effective July 1, 1982, for each hour in which the member is engaged in official duties. All paroling authority members shall receive their necessary expenses for travel and incidentals which shall be paid from appropriations provided the authority for such purposes, on vouchers approved by the director of social services."

SECTION 14. Section 356-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The authority shall employ, not subject to chapters 76 and 77 and section 26-35(4), an executive director. Effective July 1, 1981, the salary of the executive director shall be \$44,000 a year. Effective July 1, 1982, the salary of the executive director shall be \$47,520 a year. The authority may employ, subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent and temporary, as required. When, in the determination of the authority, services to be performed are unique and essential to the execution of the functions of the authority, it may hire persons on a contractual basis not subject to chapters 76, 77, and 78; provided that no individual contract shall be for a period longer than two years per term. The authority may call upon the attorney general for such legal services as it may require or may employ its own counsel and legal staff. The

authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.”

SECTION 15. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a labor and industrial relations appeals board composed of three members nominated and, by and with the advice and consent of the senate, appointed by the governor for terms of ten years each, except that the terms of members first appointed shall be for six, eight, and ten years respectively as designated by the governor at the time of appointments. The governor shall designate the chairman of the board who shall be an attorney at law licensed to practice in all of the courts of this State. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper handling of appeals under workers’ compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated. The members shall devote full time to their duties as members of the board. [The] Effective July 1, 1981, the salary of the chairman of the board shall be [the same as the salary of a circuit court judge. Each] \$46,750 a year, and the salary of each of the other members shall be [paid a salary at the rate of ninety-five per cent of the chairman’s salary.] \$44,413 a year. Effective July 1, 1982, the salary of the chairman shall be \$47,520 a year, and the salary of each of the other members shall be \$44,550 a year.”

SECTION 16. Section 410-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The powers and duties of the commissioner shall include, but not be limited to:

- (1) Enforcing the provisions of this chapter and other laws relating to credit unions;
- (2) Conferring with the credit union review board on matters affecting credit unions incorporated under this chapter;
- (3) Appointing a deputy not subject to chapters 76, 77, and 89 who shall receive a salary, effective July 1, [1975,] 1981, of [not more than \$29,500] \$35,750 a year[,] and, effective [January] July 1, [1976,] 1982, of [not more than \$32,500] \$38,610 a year. He shall possess all powers and perform all duties attached to the office of the commissioner of credit unions during a vacancy or during the absence or inability of the commissioner; and
- (4) Employing examiners and clerks pursuant to chapters 76 and 77 to assist him and his deputy in the discharge of the duties of the office.

The commissioner, his deputy, and the employees of the office shall be subject to the same requirements and penalties of the members of the board as provided in section 410-3(c).”

SECTION 17. Section 431-33, Hawaii Revised Statutes, is amended to read as follows:

“**§431-33 Salary.** The insurance commissioner shall not receive any salary in addition to his salary as director of regulatory agencies. [The salary of the assistant insurance commissioner shall be not more than \$37,500, to be set by the director of

regulatory agencies.] Effective July 1, 1981, the salary of the assistant insurance commissioner shall be \$41,250 a year. Effective July 1, 1982, the salary of the assistant insurance commissioner shall be \$44,550 a year."

SECTION 18. Section 487-4, Hawaii Revised Statutes, is amended to read as follows:

**"§487-4 Salaries; benefits.** [The salary of the director of the office of consumer protection shall be set by the governor.] Effective July 1, [1975,] 1981, the salary of the director of the office of consumer protection<sup>1B</sup> shall be [not more than \$34,500] \$41,250 a year. Effective [January] July 1, [1976,] 1982, the salary of the director<sup>2</sup> shall be [not more than \$37,500] \$44,550 a year. The director and attorney staff members shall be entitled to participate in any employee benefit plan."

SECTION 18A. Section 581-1, Hawaii Revised Statutes, is amended to read as follows:

**"(b)** The director of the office shall be known as the director of the office of children and youth, hereinafter referred to as director. The director shall have training and/or experience in the field of social work, education, public health, or other related fields; direct experience in programs and services related to children and youth; and experience in a supervisory, consultative, or administrative position. The director shall be appointed by the governor without regard to chapters 76 and 77. [The salary of the director shall be set by the governor.] Effective July 1, 1981, the salary of the director shall be \$41,250. Effective July 1, 1982, the salary of the director shall be \$44,550. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 19. Section 802-11, Hawaii Revised Statutes, is amended to read as follows:

**"§802-11 Appointment of state public defender.** The state public defender shall be appointed by the defender council without regard to chapters 76, 77, and 89. His appointment shall be for a term of four years except as otherwise provided herein, and until his successor is appointed and qualified. He shall be qualified to practice law before the supreme court of this State. [The annual salary of the state public defender shall be set by the defender council.] Effective July 1, [1975,] 1981, the salary of the state public defender shall be [not more than \$34,500] \$41,250 a year. Effective [January] July 1, [1976,] 1982, the salary of the state public defender shall be [not more than \$37,500] \$44,550 a year. [The first state public defender appointed pursuant to this section shall be appointed for a term commencing July 1, 1971, and expiring December 31, 1975.] The state public defender shall devote full time to the performance of his duties and shall not engage in the general practice of law."

SECTION 20. Act 1, First Special Session Laws of Hawaii 1981, part III, section 14, is amended to read as follows:

**"SECTION 14.** Provided, that of the general fund appropriation for the General Support for Economic Development (PED 142), \$37,500 for [each] the fiscal year [of the fiscal biennium 1981-83] 1981-82 is for a second deputy director."

SECTION 21. There is appropriated out of the general revenues of the State of Hawaii to Program Planning, Analysis, and Budgeting (BUF 101) in the oper-

ating cost category the sum of \$329,467 for fiscal year 1981-1982 and \$621,092 for fiscal year 1982-1983, or so much thereof as may be necessary to provide salary increases and retroactive salary payments for executive branch officers of the State whose salaries are increased under this Act.

Special and federal funds shall be used to the maximum extent before state funds are utilized. Any unexpended or unencumbered balance of any appropriations made by this Act as of the close of business on June 30, 1983, shall lapse into the general fund.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.

## PART II

SECTION 22. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court, each judge

of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the intermediate appellate court and of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);

- (10) Assistant and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other



- functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;
  - (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
  - (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
  - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
  - (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 23. Section 571-8.2, Hawaii Revised Statutes, is amended to read as follows:

"**§571-8.2 Salary of district family judges.** Effective July 1, [1975, the compensation] 1981, the salary of each district family court [judges] judge of the various district family courts of the State shall be [\$36,800] \$44,000 a year. Effective [January] July 1, [1976, the compensation] 1982, the<sup>3</sup> salary of each district family court [judges] judge of the various district family courts of the State shall be [\$40,000] \$47,520 a year."

SECTION 24. Chapter 601, Hawaii Revised Statutes, is amended as follows:

1. Section 601-3 is amended to read:

"**§601-3 Administrative director.** The chief justice,<sup>4</sup> with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a

resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, [1975, he] 1981, the administrative director shall receive a salary of [not more than \$36,800] \$46,750 a year. Effective [January] July 1, [1976, he] 1982, the administrative director shall receive a salary of [not more than \$40,000] \$50,490 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvement;
- (2) Examine the state of the dockets of the courts, secure information as to their needs of assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature;
- (7) Carry out all duties and responsibilities that are specified in title 7 as it pertains to employees of the judiciary; and
- (8) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. [The] Effective July 1, 1981, the salary of the deputy administrative director shall be [ninety-five per cent of the administrative director's salary.] \$44,000 a year. Effective July 1, 1982, the salary of the deputy administrative director shall be \$47,520 a year. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and expenditures of public funds for their maintenance and operation."

2. Section 601-32 is amended to read:

"~~[[§601-32]]~~ **Appointment.** The chief justice shall appoint and commission and,<sup>5</sup> at his pleasure, remove, without regard to [chapters] chapter 76 [and 77], the sheriff and deputy sheriffs."

3. Section 601-36 is amended to read:

"**§601-36 [Salaries.] Compensation classification, fees.** [The salary of the sheriff shall be set by the chief justice.] Effective July 1, [1975,] 1981, the sheriff's salary shall be [not more than \$16,100] \$19,250 a year. [Effective January 1, 1976, the sheriff's salary shall be not more than \$17,500 a year.] Effective July 1, [1975,]

1981, the salary of the first deputy sheriff and second deputy sheriff shall be [set by the chief justice and shall not be more than \$13,800] \$16,500 a year. [Effective January 1, 1976, the salary of the first deputy sheriff and second deputy sheriff shall be set by the chief justice and shall not be more than \$15,000 a year.] Effective July 1, 1982, the positions of sheriff, first deputy sheriff, and second deputy sheriff shall be exempt from chapter 76, but shall be included in the compensation plan without loss of pay or benefits.

The sheriff's deputies, other than the first deputy and second deputy, shall receive in full payment of their services only such fees as are prescribed by law; provided that the legally prescribed fees for such service of summons, subpoena, attachment, execution, or other civil process as provided by sections 607-4 and 607-8, shall belong to the sheriff, deputy sheriff, or other officer making such services."

SECTION 25. Chapter 602, Hawaii Revised Statutes, is amended as follows:

1. Section 602-2 is amended to read:

"§602-2 Salary, supreme court justices. Effective July 1, [1975, the compensation] 1981, the salary of the chief justice of the supreme court shall be [\$45,125] \$52,250 a year and the [compensation] salary of [the] each associate [justices] justice of the supreme court shall be [\$41,400] \$49,500 a year. Effective [January] July 1, [1976, the compensation] 1982, the salary of the chief justice of the supreme court shall be [\$47,500] \$56,430 a year and the [compensation] salary of [the] each associate [justices] justice of the supreme court shall be [\$45,000] \$53,460 a year."

2. Section 602-52 is amended to read:

"[§602-52] Salary. [The compensation] Effective July 1, 1981, the salary of the chief judge of the intermediate appellate court shall be [\$45,000] \$49,500 a year and the [compensation] salary of [the] each associate [judges] judge shall be [\$43,750] \$48,125 a year. Effective July 1, 1982, the salary of the chief judge shall be \$53,460 a year and the salary of each associate judge shall be \$51,975 a year."

SECTION 26. Section 603-5, Hawaii Revised Statutes, is amended to read as follows:

"§603-5 Salary of circuit court judges. Effective July 1, [1975, the compensation of the] 1981, the salary of each circuit court [judges] judge of the various circuit courts of the State shall be [\$39,100] \$46,750 a year. Effective [January] July 1, [1976, the compensation of the] 1982, the salary of each circuit court [judges] judge of the various circuit courts of the State shall be [\$42,500] \$50,490 a year."

SECTION 27. Section 604-2.5, Hawaii Revised Statutes, is amended to read as follows:

"§604-2.5 Salary of district judges. Effective July 1, [1975, the compensation of the] 1981, the salary of each district court [judges] judge of the various district courts of the State shall be [\$36,800] \$44,000 a year. Effective [January] July 1, [1976, the compensation] 1982, the salary of [the] each district court [judges] judge of the various district courts of the State shall be [\$40,000] \$47,520 a year."

SECTION 28. There is appropriated out of the general revenues of the State of Hawaii the sum of \$242,750 for fiscal year 1981-1982 and \$443,480 for fiscal year 1982-1983, or so much thereof as may be necessary to provide salary increases and retroactive salary payments for justices, judges, and judicial branch officers and employees, whose salaries are increased under this part.

The sum appropriated shall be expended by the judiciary for the purposes of this part.

### PART III

SECTION 29. Chapter 23, Hawaii Revised Statutes, is amended as follows:

1. Section 23-3 is amended to read:

**“§23-3 Salary of the auditor and appropriations.** The salary of the auditor shall be fixed by the legislature and shall not be diminished during the auditor’s term of office. [The salary shall be the same as the salary of circuit court judges. Any adjustment in the annual salary of the circuit court judges as fixed by the legislature shall be applicable to the salary of the auditor.] Effective July 1, 1981, the salary of the auditor shall be \$46,750 a year. Effective July 1, 1982, the salary of the auditor shall be \$50,490 a year.

The funds for the support of the auditor’s office shall be provided for in the act providing for the expenses of the legislature.”

2. Section 23-8 is amended to read:

**“§23-8 Assistance and staff.** In the performance of his duties, the auditor may employ the services of one or more certified public accountants or accounting firms, and such other assistants and clerical workers as may be necessary, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office and provided further, that such accountants, firms, and assistants are entirely independent of the departments, offices, and agencies of the State and its political subdivisions whose affairs are subject to audit by the auditor. All employees shall be hired by the auditor subject to the approval of the president of the senate and the speaker of the house of representatives and shall serve at his pleasure; provided[,] that in the establishment of the salary of each employee the auditor shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department; and provided further[,] that, effective July 1, 1981, the salary of the first assistant or first deputy shall [not exceed a sum equal to ninety-five per cent of the salary of the auditor.] be \$44,000 a year and, effective July 1, 1982, the salary of the first assistant or first deputy shall be \$47,520 a year. The auditor and his full-time staff shall be entitled to participate in any employee benefit program privileges.”

SECTION 30. Chapter 23G, Hawaii Revised Statutes, is amended as follows:

1. Section 23G-1 is amended to read:

**“§23G-1 Legislative reference bureau; director, appointment, tenure, removal, compensation, vacancy.** The office of the legislative reference bureau is established. The legislature, by a majority vote of each house in joint session, shall appoint a director for the bureau who shall serve for a period of six years and thereafter until a successor shall have been appointed. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the director from office, but only for neglect of duty, misconduct, or disability.

If the director dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the director shall become the acting

director until a new director is appointed.

[The] Effective July 1, 1981, the salary of the director shall be [the same as the salary of the circuit court judges. Any adjustment in the annual salary of the circuit court judges as fixed by the legislature shall be applicable to the salary of the director.] \$46,750 a year. Effective July 1, 1982, the salary of the director shall be \$50,490 a year. The [compensation] salary of the director shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State."

2. Section 23G-2 is amended to read:

"~~[[§23G-2]]~~ **Assistant; staff.** The director shall appoint a first assistant and such other officers and employees as may be necessary to carry out the functions of the bureau. All employees, including the first assistant, shall be hired by the director and shall serve at his pleasure. In determining the salary of the employees of the bureau, the director shall consult with the department of personnel services; provided that, effective July 1, 1981,<sup>6</sup> the salary of the first assistant shall [not exceed the sum equal to ninety-five per cent of the salary of the director.] be \$44,000 a year and, effective July 1, 1982, the salary of the first assistant shall be \$47,520 a year.<sup>7</sup> The director and his full-time staff shall be entitled to participate in any employee benefit program plan or privilege."

SECTION 31. Section 84-35, Hawaii Revised Statutes, is amended to read as follows:

"**§84-35 Staff.** The ethics commission may employ and at pleasure remove such persons, including an executive director, as it may deem necessary for the performance of its functions [and fix their compensation]. Effective July 1, 1981, the salary of the executive director shall be \$34,096 a year. Effective July 1, 1982, the salary of the executive director shall be \$34,824 a year. The commission shall fix the compensations of other employees within the amounts made available by appropriation therefor. The employees of the commission shall be exempt from chapters 76 and 77."

SECTION 32. Chapter 96, Hawaii Revised Statutes, is amended as follows:

1. Section 96-2 is amended to read:

"**§96-2 Ombudsman; office established, appointment, tenure, removal, qualifications, [compensation,] salary, vacancy.** The office of the ombudsman is established. The legislature, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a period of six years and thereafter until a successor shall have been appointed. An ombudsman may be reappointed but may not serve for more than three terms. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

No person may serve as ombudsman within two years of the last day on which he served as a member of the legislature, or while he is a candidate for or holds any other state office, or while he is engaged in any other occupation for reward or profit.

[The salary of the ombudsman shall be the same as the salary of the circuit court judges. Any adjustment in the annual salary of the circuit court judges as fixed by the legislature shall be applicable to the salary of the ombudsman.] Effec-

tive July 1, 1981, the salary of the ombudsman shall be \$46,750 a year. Effective July 1, 1982, the salary of the ombudsman shall be \$50,490 a year. The [compensation] salary of the ombudsman shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State.

If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the ombudsman becomes the acting ombudsman until a new ombudsman is appointed for a full term.”

2. Section 96-3 is amended to read:

**“§96-3 Assistance, staff, delegation, funding.** The ombudsman shall appoint a first assistant and such other officers and employees as may be necessary to carry out this chapter. All employees, including the first assistant, shall be hired by the ombudsman and shall serve at his pleasure. In determining the salary of each such employee, the ombudsman shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department. [The] Effective July 1, 1981, the first assistant’s salary shall [not exceed ninety-five per cent of the salary of the ombudsman.] be \$44,000 a year. Effective July 1, 1982, the first assistant’s salary shall be \$47,520 a year. The ombudsman and his full-time staff shall be entitled to participate in any employee benefit plan.

The ombudsman may delegate to his appointees any of his duties except those specified in sections 96-12 and 96-13; provided that during the absence of the ombudsman from the island of Oahu, or his temporary inability to exercise and discharge the powers and duties of his office, such powers and duties as contained in sections 96-12 and 96-13 shall devolve upon the first assistant during such absence or inability.

The funds for the support of the office of the ombudsman shall be provided for in the act providing for the expenses of the legislature.”

SECTION 33. There is appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below the following sums, or so much thereof as may be necessary for the fiscal biennium 1981-1983, to provide salary increases, and retroactive salary payments for the legislative auditor and the auditor’s first deputy or first assistant, the director of the legislative reference bureau and the director’s assistants, executive director of the ethics commission, and the ombudsman and the ombudsman’s first assistant:

	FY 1981-1982	FY 1982-1983
Office of the Legislative Auditor	\$ 7,875	\$15,135
Ethics Commission	3,100	6,510
Office of the Legislative Reference Bureau	17,975	31,813
Ombudsman	7,875	15,135

The sum appropriated shall be expended by the auditor, office of the legislative reference bureau, or office of the ombudsman, as applicable, for the purposes of this part.

#### PART IV

SECTION 34. The purpose of this section is to prohibit the increase of the

salaries of certain city and county officers of the executive branch after June 30, 1982. The salaries of elected officials, department heads, first deputies to department heads, and certain officers and employees under the mayors' offices which are at least equal to or more than the salary of a department head are subject to this section.

Efficient and effective government requires a reasonable relationship among the salaries of full-time, top-level officers of all jurisdictions according to levels of responsibilities. Salary inequities and disparities among top-level officers produce morale problems, which may result in less than the best performance of duties by officers with the problems.

The State has recognized the principle of equal pay for equal work to minimize such problems, at least for lower level public officers and employees. The principle has been implemented in civil service classification and collective bargaining laws of statewide application which cover civil service officers and employees of the State and counties. Implementation of the principle has provided a system of public employment which promotes efficient and effective government at all levels by requiring approximately the same compensation to officers and employees with essentially the same responsibilities, experience, and work performance.

Unlike the salaries of their subordinate civil service officers and employees which are rationally interrelated under the classification and collective bargaining processes, the salaries of top-level officers of the State and counties are not presently interrelated in a similar manner. Each of the jurisdictions establishes the salaries independent of the other. Thus, there is no formal schedule which interrelates salaries according to rational criteria among all jurisdictions.

The legislature finds that a schedule of integrated, equitable, and reasonable salaries among top-level officers of all jurisdictions is necessary to provide for more efficient and effective government. In parts I, II, and III of this Act, the legislature has attempted to establish salaries of top-level state officers which are interrelated according to levels of responsibilities. The salaries of the state officers, however, have not been established in relation to the salaries or responsibilities of top-level county officers. The legislature recognizes that this omission needs to be addressed. The legislature also recognizes that the salaries established for state officers may not be perfect and that study of the issue should be conducted to remove any imperfections. Thus, part V establishes a public officers and employees compensation review commission which, among other things, is to review the salaries of top-level officers of both the State and counties and recommend a schedule of salaries for these officers which is integrated, equitable, and reasonable. The legislature intends to consider the recommended schedule and take action to implement such a schedule, in an amended or unamended form.

Thus, the legislature finds that, to ensure a stable situation while the commission is conducting its review and for the fullest benefit to be derived from the intended schedule, the salaries of top-level county officers must not be increased until after legislative review of the recommendation.

The legislature also finds that the salaries of certain top-level county officers subject to this section are adjusted automatically when adjustments are

made to the salaries or wages of their subordinate employees under collective bargaining agreements.

Such an automatic adjustment provision is unsound and inadvisable public policy which is detrimental to the public interest. A basic conflict of interest exists when the county officers whose salaries are adjusted according to collective bargaining agreements are parties in negotiating the collective bargaining agreements. On the other hand, these county officers have a duty to engage in negotiations of collective bargaining agreements with the public interest foremost. The public interest requires the minimum expenditure of public moneys necessary for the efficient operation of government. On the other hand, these county officers will receive higher salaries if significant or substantial, or indeed if any, salary or wage increases are provided under the collective bargaining agreements. Thus the conflict of interest is obvious.

The legislature further finds that such automatic adjustments for any top-level officer of any level of government are anathema to good government and to present sunshine laws of this State. The people of this State deserve to see the methodology of salary increases for top-level officers of all levels of government, and the people should have the opportunity to testify for or against such increases. Such open government is basic to a democracy and the automatic adjustment of salaries of top-level officers, who have the greatest responsibilities to the public, without public display and input violates the principles of a democratic society.

This section prohibits the increase of the salaries of top-level county officers whose salaries are automatically adjusted when the salaries or wages of subordinate employees are adjusted under collective bargaining agreements. The legislature intends to use the recommendation of the public officers and employees compensation review commission to advise the counties on the implementation of more acceptable alternative means for establishing the salaries of top-level county officers whose salaries are automatically adjusted.

The legislature further finds that in considering the amendment of Article VIII, section 2, of the Constitution, which established county superiority in the area of executive, legislative, and administrative structure and organization, the 1968 Constitutional Convention specifically excluded matters relating to personnel from the superiority provision. The Committee on Local Government stated, in its committee report, that it was convinced that the legislature should not be deprived of the power to enact, and maintain in effect laws in this area.

The legislature finds that this section concerns purely personnel matters within the powers of the legislature and does not intrude upon the executive or administrative structure or organization of any county. The legislature further finds that this section is a law of statewide concern and interest and is necessary to provide for more efficient and effective government for the people of Hawaii.

The legislature further finds that prohibiting the increase of salaries of county officers subject to this part does not affect the powers and functions of the officers. These county officers have certain powers and functions which are assigned under state general law, county charter provisions, or county ordinance. The extent of the powers and functions are not dependent upon the amount of salaries. An increase or decrease in the salaries of the county officers does not correspondingly cause an



increase or decrease of their powers or functions. Thus, the legislature finds that this section in no way limits the powers or changes the functions of the officers, nor does this section alter the powers such that the ability to perform the functions are impaired, nor does this section alter functions such that the powers to accomplish them are insufficient.

Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§46- Prohibition on increase of salaries of certain county officers and employees.** The salary of a city and county or county officer or employee of the executive branch who is:

- (1) Exempt from civil service by section 76-77(1), but whose salary is or becomes at least equal to or more than the salary of the head of any department of the city or county under which employed; or
- (2) Exempt from civil service by section 76-77(2);

shall not be increased after June 30, 1982.”

**SECTION 34A.** The purpose of this section is to prohibit the State and the counties from providing salary adjustments or increases to certain state and county officers or employees where the adjustment or increase constitutes a mandatory adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary increases received by civil service or non-civil-service employees covered by collective bargaining. The prohibition against such automatic salary adjustments would apply in essence to state and county executive branch employees and state judicial branch employees who are exempt from civil service and collective bargaining; who are not subject to chapter 89C, Hawaii Revised Statutes; and whose salary or compensation is fixed or limited by statute or ordinance.

The legislature finds that the salaries of certain elected and appointed county officers are adjusted automatically when adjustments are made to the salaries or wages of their subordinate employees under the collective bargaining agreements.

Such an automatic adjustment provision is unsound and inadvisable public policy which is detrimental to the public interest. A basic conflict of interest exists when the elected or appointed county officers whose salaries are adjusted according to collective bargaining agreements are parties in negotiating the collective bargaining agreements. On the other hand, these county officers have a duty to engage in negotiations of collective bargaining agreements with the public interest foremost. The public interest requires the minimum expenditure of public moneys necessary for the efficient operation of government. On the other hand, these county officers will receive higher salaries if significant or substantial, or indeed if any, salary or wage increases are provided under the collective bargaining agreements. Thus, the conflict of interest is obvious.

The same conflict would arise if state officers, who are exempt from collective bargaining, were to receive automatic salary adjustments tied in to salary increases under collective bargaining agreements they helped to negotiate.

Moreover, the legislature finds that the current problem of an inequitable, unintegrated, and uncoordinated compensation system between and among certain high level elected and appointed officers or employees of the state and

county governments, especially between and among the counterpart positions at these two levels of government, is an urgent and important matter of statewide concern and interest requiring immediate legislative action. The legislature so finds because the pay inequities and disparities characterizing the present system — especially where certain elected and appointed county officers or employees receive automatic pay increases whenever there is a negotiated increase for their subordinate employees — adversely affect overall officer and employee morale and the efficient and economical operations of government at both the state and county levels, and the present unintegrated system impedes the State in its policy efforts and the exercise of a valid state power or function to establish some form of an integrated, equitable, and reasonable compensation schedule or pay policy for the various state and county officers and employees, not just for civil service employees or those covered by collective bargaining. Part V of this Act, which establishes a public officers and employees compensation review commission, is one example of the State's policy efforts in this regard and the exercise of the State's power to remedy the current problem of the lack of an equitable and integrated statewide public sector compensation structure.

In view of the foregoing, the legislature declares and finds that this section is a law of statewide concern and interest which is necessary to remedy the unsound public policy referred to above which is detrimental to the public interest. Furthermore, the legislature finds that no charter provision of any county specifically requires the salaries of the subject county officers or employees to be automatically adjusted according to adjustments under collective bargaining agreements. The legislature also expressly notes that the new statutory prohibition contained in this section is not only a law of statewide concern but also a law of general application which applies equally, across the board to all counties and the State.

The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**“§ - Prohibition on certain increases in salaries for certain state and county officers or employees.** Any law to the contrary notwithstanding, neither the State nor any of the counties shall provide or pay to the following state or county officers or employees any adjustment or increase in his or her respective salary or compensation where such adjustment or increase constitutes a mandatory adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary adjustments or increases received under collective bargaining agreements by civil service or other public employees covered by collective bargaining: any elected or appointed officer or employee in the executive and judicial branches of state government and the executive branch of any county government (1) whose salary or compensation is fixed, limited, or otherwise specified by statute, ordinance, or other legislative enactment whether or not in express dollar amounts or express dollar amount ceilings; (2) who is not subject to chapters 76 and 77; and (3) who is excluded from collective bargaining and not subject to chapter 89C.”

SECTION 35. If section 34 or 35<sup>8</sup> shall be deemed invalid for any reason by a court of competent jurisdiction, any grant-in-aid made by the State to a county pursuant to section 248-6, Hawaii Revised Statutes, shall be reimbursed

to the State by that county in an amount equal to any mandatory salary adjustment or increase provided or paid to any of that county's officers or employees subject to section 34 or 35<sup>8</sup> where such salary adjustment or increase is, directly or indirectly, dependent upon and related to negotiated salary adjustments or increases received under collective bargaining agreements by civil service or other public employees covered by collective bargaining.

## PART V

SECTION 36. There is established within the office of the governor for administrative purposes only an advisory commission to be known as the public officers and employees compensation review commission. The commission shall consist of eleven members appointed by the governor without regard to section 26-34, Hawaii Revised Statutes. Of the eleven members, two shall be appointed from a list of five persons nominated by the president of the senate; two shall be appointed from a list of five persons nominated by the speaker of the house of representatives; one shall be appointed respectively from each of four lists, consisting of three persons each, respectively nominated by the mayor of each of the four counties; and one shall be appointed from a list of three persons nominated by the Hawaii State Association of Counties. The officers of the commission shall be elected by the members.

After the initial appointments have been made, any vacancy in the commission shall be filled by the governor by appointment from the remaining nominees on the list applicable to that vacancy. If none of such remaining nominees is available for appointment, the governor shall fill the vacancy through consultation with the applicable nominating authority for that vacancy.

The commission shall:

- (1) Review the compensation or salaries of:
  - (a) Those elected or appointed officers or employees in the executive branches of the state and county governments — including but not limited to the governor, lieutenant governor, the mayors of the various counties, the heads of state and county departments and their deputies and assistants, and other public officers or employees — whose salaries are fixed or limited by statute, ordinance, or other law;
  - (b) The various high level officers of the judiciary branch, including but not necessarily limited to the chief justice and associate justices of the supreme court, the chief judge and associate judges of the intermediate appellate court, all other judges, and the administrative director and deputy administrative director of the courts;
  - (c) The heads and deputies and assistants of the three legislative agencies (Office of the Auditor, Office of the Ombudsman, and Legislative Reference Bureau) and any agency administratively attached to any of these agencies; and
  - (d) Such other, primarily management or higher level, non civil-service state or county executive branch officers or employees, who are not covered in (a) above and who are excluded from collective bargaining, whether or not their compensation is spe-

cifically fixed or limited by statute, ordinance, or other law and whether or not they are subject to chapter 89C, Hawaii Revised Statutes, whose compensation the commission deems necessary to review in order to develop a meaningful, equitable, and integrated statewide compensation schedule; and

- (2) Formulate and recommend a compensation schedule containing appropriate salaries or compensation for those state and county positions or officers and employees covered in (1)(a), (1)(b), (1)(c), and, as appropriate, in (1)(d) above.

In its review, the commission may examine, as necessary, the compensation of, or the compensation schedules applicable to, state and county civil service employees and any other compensation schedule or system it deems relevant.

All affected or applicable state and county agencies shall fully cooperate with and assist the commission in its review and shall provide the necessary data and information to the commission upon its request.

The recommended compensation schedule shall:

- (1) Provide in general for an integrated, equitable, and reasonable compensation structure for the state and county positions to which the compensation schedule would apply;
- (2) Provide more specifically for an integrated, equitable, and reasonable relationship, according to levels of duties, responsibilities, or functions, between superior and subordinate positions, similar positions in different public agencies, positions of the State and the counties, and between comparable positions in the public and private sectors;
- (3) Provide for respective compensations which are adequate to attract qualified persons for the various positions, but are not excessive or overly generous; and
- (4) Establish such other standards, guidelines, salary classifications, or principles which the commission deems relevant or necessary.

The commission shall submit its findings and recommendations, including the recommended compensation schedule and drafts of recommended legislation, to the governor, the legislature, and the mayor and chairperson of the council of each county no later than thirty days prior to the convening of the Regular Session of 1983.

The commission may employ, without regard to chapters 76 and 77, Hawaii Revised Statutes, and, at pleasure dismiss, such persons as it finds necessary for the performance of its functions and fix their compensation.

Members of the commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

The commission shall terminate on June 30, 1983.

SECTION 37. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1982-1983, for the operations of the public officers and employees compensation review commission, including the hiring of necessary staff.

The sum appropriated shall be expended by the office of the governor for the purposes of this Act.

## PART VI

SECTION 38. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 39. Statutory material to be repealed is bracketed. New material is underscored.<sup>9</sup>

SECTION 40. This Act shall take effect upon its approval.

(Approved May 27, 1982.)

## Notes

1. "The" should be underscored.
- 1A. "The" should not be underscored.
- 1B. "Director of the office of consumer protection" should be underscored.
2. "Of the director" should be underscored.
3. "1982, the" should be underscored.
4. "Justice" should not be underscored but "," should be.
5. "And" should not be underscored but "," should be.
6. "Effective July 1, 1981," should be underscored.
7. "Be \$44,000 a year and, effective July 1, 1982, the salary of the first assistant shall be \$47,520 a year." should be underscored.
8. "35" should be "34A".
9. Edited pursuant to HRS §23G-16.5

## ACT 130

S.B. NO. 2816-82

A Bill for an Act Relating to Grants, Subsidies, and Purchases of Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 42-3, Hawaii Revised Statutes, is amended to read as follows:

**"[[§42-3]] Conditions for grants, subsidies,<sup>1</sup> or purchases of service agreement. Applicants to whom a grant or subsidy<sub>2</sub> has been made, or a purchase of service agreement awarded, shall agree to comply with the following conditions before receiving the grant, subsidy, or purchase of service agreement:**

- (1) Employ or have under contract such persons as are qualified to engage in the activity to be funded in whole or in part by the State; provided that for nonprofit organizations, no two or more members of a family or kin of the first or second degree shall be employed or under contract by the organization unless specifically permitted in writing by the [director or the] director of the expending agency for the appropriation; provided further for nonprofit organizations[.] without negotiated wage contracts, that the provider or recipient shall also agree that any salary or employee benefit increase shall be granted only upon the prior approval of the director of the expending agency or the grants, subsidies<sub>2</sub> or purchases of service agreement shall be subject to a decrease by an amount equal to the amount of increase not so approved;

- (2) Comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, [or] age[.], or physical handicap;
- (3) Agree not to use any public funds for purposes of entertainment or perquisites;
- (4) Comply with such other requirements as the director may prescribe to ensure adherence by the provider or recipient with federal, state, and county laws; and
- (5) Allow the expending agency, the director, the committees of the legislative bodies and their staffs, and the legislative auditor full access to records, reports, files, and other related documents in order that the program, management, the fiscal practices of the providers or recipients may be monitored and evaluated to assure the proper and effective expenditure of public funds.”

SECTION 2. Section 42-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A request not reviewed pursuant to section 42-4(d) may be submitted in writing to the appropriate standing committee of the legislature and shall state that the request has not been reviewed. The chairperson of the appropriate standing committee shall refer such a request to the appropriate agency for review. The agency shall submit a statement of its findings and recommendations to the legislative committee within [ten] fifteen days of its receipt of the request.”

SECTION 3. Section 42-12, Hawaii Revised Statutes, is amended to read as follows:

“[[§42-12]] **Applicability.** This chapter shall be construed to be consistent with existing statutory law; provided that in the case of a conflict, provisions contained in this chapter shall prevail.

The standards and conditions contained in this chapter shall not apply to funds that are passed from one agency to another governmental agency; provided that if the receiving agency in turn contracts with a recipient or provider, then the standards and conditions shall apply to the recipient or provider. It shall be the responsibility of the contractor to ensure compliance by the recipient or provider.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1982.)

**Note**

- 1. The “,” should be underscored.

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§171- Auction pre-qualification; agricultural and pasture leases.**

(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 is a potential bidder under this section.

“Nonindividual concern” means a partnership, corporation, or joint venture properly formed under law and which is a potential bidder under this section.

(b) Any other law to the contrary notwithstanding, to be eligible to bid in an auction for agricultural or pasture leases, a potential bidder shall be a bona fide individual farmer or a nonindividual farm concern:

- (1) Who has spent not less than two years, full-time, in farming operations; or
- (2) Who is an owner-operator of an established farm conducting a substantial farming operation; or
- (3) Who for a substantial period of the individual’s adult life resided on a farm and depended on farm income for a livelihood; or
- (4) Who is an individual who has been a farm tenant or farm laborer or other individual, who has for the two years last preceding the auction obtained the major portion of their income from farming operations; or
- (5) Is an individual with a college degree in agriculture; or
- (6) Is an individual who by reason of ability, experience, and training as a vocational trainee is likely to successfully operate a farm; or
- (7) Who has qualified for and received a commitment for a loan under the Bankhead-Jones Farm Tenant Act as amended, or as may hereafter be amended, for the acquisition of a farm; or
- (8) Who is an individual who is displaced from employment in an agricultural production enterprise; or
- (9) Who is a member of the Hawaii Young Farmer Association or a Future Farmer of America graduate with two years of training with farming projects; or
- (10) Who possesses the qualifications under the new farmer program pursuant to section 155-1(3); or
- (11) Who possesses such other qualifications as the board of land and natural resources may prescribe pursuant to section 171-6 and this section.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved May 27, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature enacted Act 231, Session Laws of Hawaii 1981, to provide a tax credit against income taxes for resident taxpayers as a refund of excess revenues and as required by the state constitution. The legislature chose to use as a method of implementing this credit the provisions of section 235-55.5, Hawaii Revised Statutes, allowing persons an excise tax credit. The legislature notes that the excise tax credit was enacted to offset in part the general excise taxes paid in the State by state residents. In order to assure that residents paid these general excise taxes a nine-month residency requirement was placed in section 235-55.5(c), Hawaii Revised Statutes.

The legislature notes that Act 231, however, was not merely enacted to offset general excise taxes paid, but all taxes paid by residents including income taxes. While persons in the military and students are not physically in the State for nine months, if they wish to retain residency in the State they pay income taxes to the State and are included in the definition of resident in chapter 235, Hawaii Revised Statutes. As such they are taxpayers who deserve to share in the refund provided by Act 231. The legislature notes that in interpreting Act 231, the department of taxation has required all individuals claiming the credit thereunder to have physically resided in the State for nine months. The legislature did not intend that those persons in the military or others who for state income tax purposes are residents, to be disallowed the tax credit allowed under Act 231. These persons paid their fair share of taxes and therefore deserve the refund provided through the mechanism of Act 231.

It is, therefore, the purpose of this Act to allow residents of the State, whether or not they have been physically in the State for nine months, to claim the tax credit under Act 231. The legislature notes that many persons have already filed their income tax returns and are being disallowed this credit and that many more persons will be filing in the coming months. Therefore, the legislature finds that this Act is an emergency measure in need of immediate passage.

SECTION 2. Act 231, Session Law of Hawaii 1981, is amended by amending section 1 to read as follows:

“SECTION 1. In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$100 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$100 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income[; provided that for]. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified



exemption was physically in the State for nine months. For the purposes of this section multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1981. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

This section implements the provisions of Article VII, Section 6 of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

**“DISPOSITION OF EXCESS REVENUES**

**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.””

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act, upon approval, shall apply to taxable years beginning after December 31, 1980.

(Approved May 27, 1982.)

**ACT 133**

H.B. NO. 2446-82

A Bill for an Act Relating to Beauty Culture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 439-3, Hawaii Revised Statutes is amended to read:

**“§439-3 Cosmetology board; appointment; qualifications; terms.**

(a) Appointment and removal. There shall be a board of cosmetology consisting of seven members, who shall be appointed, and may be removed, by the governor in the manner provided in section 26-34.

(b) Qualifications of members. Five of the members of the board shall be operators who have been registered to practice in the State for at least five years and have been actively and continuously engaged in either or both of the classified occupations for such period and two shall be public members. None of them shall be members of nor affiliated with any school teaching any of the classified occupations[, nor shall more than two members of the board be graduates of the same school or practitioners of the same system or method].”

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved May 27, 1982.)

**ACT 134**

H.B. NO. 2742-82

A Bill for an Act Relating to Tax Credit for Child Passenger Restraint Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§235- Tax credits to promote the purchase of child passenger restraint systems. (a) Any taxpayer who files an individual income tax return for a taxable year may claim an income tax credit under this section against the Hawaii state individual net income tax.

(b) The tax credit shall be \$25; provided that the taxpayer purchases one or more new child passenger restraint systems in the tax year for which the credit is properly claimed; and provided that such restraint system can be shown to be in substantial conformity with specifications for such restraint systems set forth by the federal motor vehicle safety standards which were in effect at the time of such purchase.

(c) If the tax credit claimed by the taxpayer under this section exceeds the amount of the income tax payments due from the taxpayer, the excess of credit over payments due shall be refunded to the taxpayer; provided that the tax credit properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1.

(d) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section, may require proof of the claim for the tax credit, and may adopt rules pursuant to chapter 91.

(e) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d)(1) shall apply to the tax credit under this section.

(f) Claims for the tax credit under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1981.

(Approved May 27, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 135**

**H.B. NO. 2815-82**

**A Bill for an Act Relating to the Registration of Vehicles.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purposes of this Act are to beautify primary highways under the jurisdiction of the various counties, and to defray the cost of disposition and other related activities of abandoned vehicles.

SECTION 2. Section 286-51, Hawaii Revised Statutes, is amended to read

as follows:

“**§286-51 Registration, expense.** (a) Every certificate of registration issued under this part shall expire at midnight on December 31 of each year and shall be renewed annually before April 1 of each year upon application by the registered owner by presentation of the last issued certificate of registration or the last issued application for renewal, such renewal to take effect as of January 1 of each year; provided that[,] the certificate of registration for each motor vehicle in the counties of the State may be renewed on a staggered basis, if a county elects to do so. The director of finance of each county may [promulgate] adopt rules [and regulations] to carry out the purposes stated in this section and shall expend the necessary funds from his operating funds as may be necessary for these purposes; provided further[,] that the director of finance, if he has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to the renewal, that the registered owner deposit or pay bail with respect to all such summons or citations. The certificates of registration issued hereunder shall show, in addition to all information required under section 286-47, the serial number of the tag or emblem and shall be valid during the registration year only for which they are issued. The certificates of ownership need not be renewed annually but shall remain valid as to any interest shown therein until canceled by the director of finance as provided by law or replaced by new certificates of ownership as herein-after provided.

(b) This part shall be administered by the director of finance in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws; provided[,] that for each new certificate of ownership issued by the director of finance under section 286-52, the director of finance may charge a fee which shall be deposited in the general fund. The [fee(s)] fees charged to issue a new certificate of ownership shall be established by the county's legislative body.

Notwithstanding any other law to the contrary, an additional fee of not more than 50 cents per certificate of registration may be established by ordinance and collected annually by the director of finance of each county, to be used and administered by each county for the purpose of beautification and other related activities of primary highways under the ownership, control, and jurisdiction of each county, and to defray the additional cost in the disposition and other related activities of abandoned vehicles as prescribed in chapter 290. The moneys so assessed and collected shall be placed in a revolving fund entitled, “the highway beautification and disposal of abandoned vehicles revolving fund.””

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on July 1, 1982.

(Approved May 27, 1982.)

A Bill for an Act Relating to Interest on Credit Cards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 478-11, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§478-11]]~~ **Interest; credit cards.** Notwithstanding any other provision to the contrary, the maximum rate of interest chargeable on indebtedness incurred under a credit card agreement shall not exceed eighteen per cent per year. For purposes of this section[, credit]:

- (1) Credit card means any [instrument or device, whether known as a credit] card, [credit] plate, coupon book, or other single credit device, [or by any other name,] issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, from time to time, on credit[.], and
- (2) Credit card agreement means any agreement that provides primarily for the extension of credit pursuant to a cardholder's use of a credit card. An agreement providing for an overdraft line of credit does not, because a cardholder can access it through the use of a credit card, become a credit card agreement for purposes of this section.

This section shall remain in effect until June 30, 1985.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 27, 1982.)

A Bill for an Act Relating to State Policy Concerning the Utilization of Volunteer Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to include the office of Hawaiian affairs as a state agency subject to the provisions of state policy concerning the utilization of volunteer services, chapter 90, Hawaii Revised Statutes. Such a designation will enable the office of Hawaiian affairs to utilize the services of volunteers in its numerous activities without exposure to liability of actions of volunteers.

SECTION 2. Section 90-1, Hawaii Revised Statutes, is amended by amending the definition of “agency” to read:

- “(1) The term “agency” means any state agency within the executive, legislative, and judicial branches and the office of Hawaiian affairs but excludes the several counties.”

SECTION 3. New statutory material is underscored.

## SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1982.)

## ACT 138

S.B. NO. 2350-82

## A Bill for an Act Relating to Public Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 298-27, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[~~§298-27~~]]~~ Damage to public school property.** (a) Any pupil found to be responsible for an act of vandalism against any public school, building, facility, or ground may make restitution in any manner including monetary restitution by the pupil or pupil's parents.

For the purpose of this section, “vandalism” shall include, but not be limited to, mischievous or malicious destruction of property, such as breakage of windows, lockers, ~~[doors, and other such acts.]~~ and doors. The provisions of this section shall be in addition to and shall in no way limit the provisions of any other law concerning offenses against property rights.

(b) No pupil, parent or guardian shall be required to make restitution in any manner unless the pupil and the parents or guardian have been notified and have been given an opportunity to be heard, on any report of vandalism involving the pupil, and the pupil, parent or guardian have executed a written agreement to make such restitution.

(c) The principal of the school in which the vandalism occurred shall make or order an investigation of the vandalism. If after such investigation, the principal has reasonable cause to believe that a specific pupil is responsible for the vandalism, the principal shall schedule a conference with such pupil and his or her parents or guardian, and a public officer or employee designated by the district superintendent shall witness the conference proceedings. Except for the principal of the school in which the vandalism occurred, the officer or employee designated by the district superintendent, the pupil and the parents or guardian, no other person shall be permitted to be in the conference for any reason.

(d) At the conference, the principal of the school in which the vandalism occurred shall present its findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made. The agreement shall be acknowledged and approved by the officer or employee designated by the district superintendent to witness the conference proceedings. [The amount of liability shall not exceed \$2,000 in any agreement of the parties.]

Agreements shall be made only for damages that do not exceed \$3,500.

If restitution is made in this fashion, then all records and documents regarding the investigation and conference shall be destroyed. No information

about the investigation, conference and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall preserve all the records and documents regarding the investigation and conference and [may] shall report the findings to the district superintendent [of the findings for any further action.] who shall review the findings and may refer the matter to the attorney general for any further action pursuant to section 577-3. [Such further action includes, but is not limited to, conducting a hearing by the district superintendent on the matters reported by the principal as a contested case pursuant to chapter 91.]

(e) If the damages exceed \$3,500, the principal shall report the matter to the district superintendent who shall refer the matter to the attorney general for any further action pursuant to section 577-3.

[(e)] (f) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this [[]section[[]] shall limit the right of the State to bring [such] an action against any person to recover such damages.”

SECTION 2. This Act shall not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

**ACT 139**

S.B. NO. 2353-82

**A Bill for an Act Relating to the Job Sharing Pilot Project in the Public Library System.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 150, Session Laws of Hawaii 1978, established a three-year pilot project in the department of education to test the feasibility of job-sharing. Act 134, Session Laws of Hawaii 1980, amended Act 150 and the pilot project design for the remaining year of the test period. Act 105, Session Laws of Hawaii Regular Session 1981 amended Act 150 by extending the pilot project for an additional two years.

The legislature finds that the pilot project has been effective in achieving the objectives of the job-sharing program and that a job-sharing pilot project should be established for librarians within the public library system.

The purpose of this Act, therefore, is to establish a voluntary, job-sharing pilot project in the public library system.

SECTION 2. There is established a two-year, job-sharing pilot project to be conducted within the public library system by the board of education for fiscal years 1982-1983 and 1983-1984; provided that the board of education shall not

implement the pilot project without first carefully developing its plans, procedures, and guidelines. Job sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position shall constitute two job-sharing positions. The board of education shall devote no more than fifty full-time, permanent positions to job-sharing, pursuant to this Act. The board shall administer the pilot project established by this Act, and shall, in consultation with the representatives of the appropriate bargaining units, adopt guidelines for the implementation of this Act.

**SECTION 3.** The following shall constitute general requirements of the pilot project conducted within the public library system, and shall be followed in the implementation of this Act:

- (1) The state librarian shall announce the pilot project to all full-time librarians of the public libraries and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The state librarian, in consultation with the recognized employee bargaining units, shall formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who may request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the state librarian. Those who qualify shall then be interviewed by a personnel officer of the public library system. Participation shall be for fiscal year 1982-1983 and/or 1983-1984.
- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the state librarian shall, for the purposes of this Act, convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other which shall be filled by either another permanent employee or a person hired under this Act; provided that the positions composed of job-sharing teams of two permanent employees shall not exceed twenty-five.
- (4) Persons hired to fill job-sharing positions shall be recruited through this Act; provided that any person hired for a job-sharing position shall possess the minimum requirements of the full-time position which was converted to job-sharing positions under this Act.
- (5) Job sharing, for the purposes of this Act, is the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per week, and with each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

The full-time permanent employee shall not lose membership in an

employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of the law to the contrary notwithstanding. Job sharers shall be covered by chapter 386, Hawaii Revised Statutes, and the applicable provisions of chapter 383, Hawaii Revised Statutes. Nothing in this Act shall be construed to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing pilot project. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Participation in the pilot project shall require the commitment on the part of all parties to a contractual agreement.
- (7) No job-sharing position created under this Act and committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the public library system on the part of any person shall be filled through recruitment of another person pursuant to this Act.
- (8) Upon the termination of contractual agreement under this Act, all job-sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the pilot project shall be entitled to resume their positions without loss of any employee rights.

SECTION 4. The office of the legislative auditor shall monitor and evaluate the pilot project, with particular regard to the efficacy of the job-sharing concept, and shall evaluate factors such as turnover rates, absenteeism, productivity, morale, and demographic factors such as ethnic, sex, and age composition of participants, and other pertinent data. The office of the legislative auditor shall also, among other analyses, identify factors which facilitated or made more difficult the implementation of this Act. The office of the legislative auditor shall submit a status report on its findings to the legislature in the regular session of 1984.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

ACT 140

S.B. NO. 2467-82

A Bill for an Act Relating to Firearms and Ammunition.



*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) No person who is under indictment or who has waived indictment for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or of the illegal sale of any drug, shall own or have in his possession or under his control any firearm or ammunition therefor.”

SECTION 2. Section 134-8, Hawaii Revised Statutes, is amended to read as follows:

“**§134-8 Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited; penalty.** The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, submachine guns, automatic rifles, or rifles with barrel lengths less than sixteen inches, or shotguns with barrel lengths less than eighteen inches, cannon, mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms, or any hand grenade, dynamite, or other explosives, blasting caps, bombs, or bombshell, or any type of ammunition, or any projectile component thereof, which is coated with teflon or any other similar coating or which is designed primarily to enhance its capability to penetrate metal or pierce protective armor, and any type of ammunition, or any projectile component thereof, designed or intended to explode or segment upon impact with its target, is prohibited. Any person violating this section shall be guilty of a class C felony and shall be imprisoned for a term of five years, without probation.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

ACT 141

S.B. NO. 2765-82

A Bill for an Act Relating to Public Contracts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 102-11, Hawaii Revised Statutes, is amended to read as follows:

“**§102-11 Bond; conditions.** Before any contract is entered into, the party with whom the contract is proposed to be made shall give security for the performance thereof by a good and sufficient bond conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof, which bond shall be in an amount [equal to] not less than two months' rental [or] and other [charge] charges, if any, required under the contract[.]; provided that any contract for the sale and delivery of in-bond merchandise at Honolulu International Airport shall require a bond in an amount not less than four months of the highest minimum annual rental guaranty required under the contract. The bond shall also by its terms inure to the benefit of the State or of the county, as the case may be.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 28, 1982.)

ACT 142

S.B. NO. 2909-82

A Bill for an Act Relating to the Development of an Inter-Island Electrical Power Cable.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that during the past several years, particularly since the OPEC oil embargo of 1974, the world price for crude oil has been rapidly escalating at an artificial pace. Furthermore, the State of Hawaii is heavily dependent upon the importation of foreign fossil fuels for its electrical energy production needs. This dependence results in a steady cash outflow from the State to pay for these fuel needs. In 1978, over 44 million barrels of crude petroleum were imported into the State, resulting in a cash outflow of over \$600,000,000.

The State of Hawaii is an island state with an ocean separating the different counties. Due to this geographic characteristic, each island produces its own electricity largely by the use of imported fuels. This results in high electricity rates for several of the islands caused in part by the inability to produce greater and less expensive amounts of energy through economies of scale.

Accordingly, the purpose of this Act is to further the development of an inter-island electrical power cable system. Geothermal energy conversion is the only large-scale, indigenous, baseload electricity source that is now available in Hawaii. The only proven geothermal resource reservoir in the State is on the Island of Hawaii, and this resource is unlikely to be fully developed unless the electricity it produces can be transmitted to the Island of Oahu, where eighty-two per cent of the State's electricity is consumed.

The legislature, therefore, finds that the development of geothermal energy on the Island of Hawaii for electrical power and the transmission of such energy inter-island, by an undersea cable system, will help to alleviate Hawaii's dependence on imported fuels and reduce the rising cost of consumer electrical energy. A submarine cable is therefore critical to Hawaii's welfare and its energy future.

SECTION 2. The purpose of this Act is to provide for partial funding of Phase II-A of the Hawaii Deep Water Cable Program. State funding will provide for sea route surveys, computer simulation modeling of cable mechanical and structural characteristics, electrical grid system integration investigation, manufacture and laboratory test cable repair splicing, and program management support.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$550,000, or so much thereof as may be necessary for fiscal year 1982-83 to accomplish the purposes of this Act and to supplement prior appropriations.

SECTION 4. The sum appropriated herein shall be expended by the state

department of planning and economic development for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

## ACT 143

H.B. NO. 161

A Bill for an Act Relating to Weight of Bread.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 486A-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§486A-1]]~~ **Weight of loaf; penalty for selling under weight.** A loaf of bread for sale shall be [one pound in weight. Bread, unless chiefly composed of rye or maize, shall not be manufactured for sale or sold except in the following net weights twelve hours after baking:] one-half pound; three-quarters pound; one pound; one and a half pounds; two pounds or [other] multiples of one pound [weights].

Variations [at the rate of one ounce per pound over and one ounce per pound under the above specified weights are permitted in individual loaves, but the average weight of not less than twenty-five loaves of any one unit of any one kind shall be not less than the weight prescribed by this chapter] from the above weights, the sampling size, definitions, and exemptions shall be established by rule adopted by the director of measurement standards, in accordance with chapter 91.

Twin or multiple loaves may be sold, provided they conform to the above weight requirements.

Whoever violates this chapter shall be fined not more than \$25 for each offense.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 28, 1982.)

## ACT 144

H.B. NO. 1100

A Bill for an Act Relating to Fee for Civil Identification Certificate.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 28-37, Hawaii Revised Statutes, is amended to read:

“**§28-37 Registration and issuance of certificates; fee.** Every person residing or present in the State may be registered, and have issued to him a certificate of identification, under this part.

Application for the registration shall be made in person by any adult person or minor over the age of sixteen years. In the case of a minor under the age of sixteen years, the application shall be made in his behalf by the parent or other

person in loco parentis of such minor. In the case of an incompetent person, the application shall be made by the person having the custody or control of or maintaining the incompetent person. A fee of [\$2] \$6 shall be paid by each applicant, which fee, however, may be waived by the attorney general in cases of extreme hardship.”

SECTION 2. Section 28-41, Hawaii Revised Statutes, is amended to read:  
**“§28-41 Identification certificates not to be altered, etc.; duties of holder; lost certificates.** No person, except agents of the department of the attorney general acting pursuant to its authority, shall alter, deface, or destroy any certificate of identification. Except as specifically authorized by this section or the rules and regulations of the attorney general, no registrant shall loan or give his certificate of identification to any other person, and no person shall use the certificate of identification of any other person. Any registrant whose certificate of identification is stolen or otherwise lost, or altered, defaced, or destroyed, shall report the fact to the nearest office of the department within forty-eight hours after discovering the fact, and may at any time apply for a duplicate certificate of identification in such manner as the attorney general may require, which duplicate shall be issued by the department upon being satisfied as to such loss, alteration, defacing, or destruction and the payment of a fee of [\$2] \$6, and shall be distinctly marked a duplicate. The fee may be waived by the attorney general where the requirement thereof would impose extreme hardship. In the case of an altered or defaced certificate of identification, the certificate, if available, shall be surrendered by the registrant and canceled by the department. Any person finding or coming into the possession of the certificate of identification of any other person shall promptly return or deliver the same to the owner thereof or to the nearest office of the department. Any person finding his own lost certificate after having received a duplicate certificate shall promptly deliver the previously lost certificate to the department.”

SECTION 3. Section 28-42, Hawaii Revised Statutes, is amended to read:  
**“§28-42 Correction or alteration of records and certificates in cases of error or subsequent changes concerning names, citizenship, description, etc.** If, after registration, the name of any registrant is legally changed by marriage, divorce, adoption, legitimation, order of the lieutenant governor, or other legal means, or if there is a change in the registrant’s citizenship status, the registrant or other person in charge of the registrant (in the case of a minor or incompetent person) shall, within thirty days after the change of name or citizenship status, report the change and present his certificate of identification to the department of the attorney general and pay to the department a fee of [\$2] \$6 (which fee, however, may be waived by the department in cases of extreme hardship). The department upon being satisfied as to the change and receiving payment of the fee, shall cancel the certificate and issue a new certificate bearing the new name or citizenship status of the registrant, making appropriate notation of the facts upon the records of the department.

If any error has been made in any item of information contained in the records of the department or the certificate of identification concerning any registrant, the department, of its own motion, or upon application by the registrant, and upon receipt of evidence satisfactory to it that error has been committed, may, with the approval of the attorney general or his specially authorized representatives, correct the error and, in such case, shall make appropriate changes or notations

stating the error and the correct information upon the records of the department and the certificate of identification.

In case any item of personal information originally correct with respect to any registrant shall change after registration, the change may, if material, be registered by the department and the records and certificate of identification may be altered to conform thereto, upon receipt by the department of satisfactory evidence as to the change and the approval of the attorney general or his specially authorized representative and the payment of a fee of [~~\$2~~] \$6 (which fee, however, may be waived by the department in cases of extreme hardship)."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

### ACT 145

H.B. NO. 1558

A Bill for an Act Relating to Precinct Official Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-76, Hawaii Revised Statutes, is amended to read as follows:

"**§11-76 Compensation.** (a) Electronic ballot and voting machine elections. Precinct officials, other than the chairman and voter assistance official, shall be paid [~~\$45~~] \$60 for each election. The voter assistance official shall be paid [~~\$50~~] \$65 for each election. The chairman of the precinct officials for each precinct shall be paid [~~\$55~~] \$70 for each election for a single-unit precinct and \$10 more per unit for larger precincts. Alternate precinct officials who are trained and certified and who remain available but who are not placed for work in either the primary or general election shall be compensated \$5.

(b) Paper ballot elections. The chairman of the precinct officials and the precinct officials shall receive the same base amounts as in subsection (a). In addition, all precinct officials shall be paid [~~\$1~~] \$5 for each three hundred ballots or portion thereof cast at that precinct."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 28, 1982.)

### ACT 146

H.B. NO. 1642

A Bill for an Act Relating to Aeronautics.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 261-52, Hawaii Revised Statutes, is amended to read

as follows:

“§261-52 Powers. In addition and supplemental to the powers granted to the department by law, the department may:

- (1) With the approval of the governor, and without public bidding, enter into a special facility lease or an amendment or supplement thereto whereby the department agrees to construct, acquire, or remodel and furnish or equip a special facility solely for the use by such other person to a special facility lease.
- (2) With the approval of the governor, issue special facility revenue bonds in such principal amounts as may be necessary to yield the amount of the cost of any construction, acquisition, remodeling, furnishing, and equipping of any special facility, including the costs of acquisition of the site thereof; provided that the total principal amount of the special facility revenue bonds which may be issued pursuant to the authorization of this paragraph shall not exceed [\$25,000,000] \$50,000,000; provided that these funds not be expended on non-public air facilities.
- (3) Perform and carry out the terms and provisions of any special facility lease.
- (4) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, or remodel and furnish or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the special facility lease.
- (5) Construct any special facility on land owned by the State [or on land or rights or interests in land acquired for that purpose.]; provided that no funds derived herein will be expended for land acquisition.
- (6) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by such other person. Neither such undertaking by such other person nor the acceptance by the department of a contract theretofore entered<sup>1</sup> by such other person therefor, shall be subject to [the provisions of] section 103-22.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 28, 1982.)

**Note**

1. Prior to amendment, the word “into” appeared here.

or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-16, Hawaii Revised Statutes, is amended to read as follows:

**“§26-16 Department of agriculture.** (a) The department of agriculture shall be headed by an executive board to be known as the board of agriculture.

The board shall consist of [seven] eight members, one who shall be a resident of the county of Hawaii, one who shall be a resident of the county of Maui, one who shall be a resident of the county of Kauai, [and] four at large[.], and the chairperson of the board of land and natural resources who shall serve as an ex officio voting member. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint a chairman of the board from the members. [The chairman of the board of land and natural resources shall be added as an ex officio voting member of the board.]

(b) The board may delegate to the chairman such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairman of the board shall serve in a full-time capacity. He shall, in that capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the board.

(c) The department shall promote the conservation, development, and utilization of agricultural resources in the State; assist the farmers of the State and any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture and increasing the productivity of the lands, and administer the programs of the State relating to animal husbandry, entomology, farm credit, development of agricultural products, and the establishment and enforcement of the rules [and regulations] on the grading and labeling of agricultural products.

(d) The chairman [of the board of agriculture] or his designated representative shall hold at least one publicly announced hearing on each of the islands of Oahu, Hawaii, Maui, Kauai, and Molokai each year for the purpose of hearing complaints and suggestions, if any, from the farmers, ranchers, consumers, and other interested groups and persons with respect to matters within the duties, powers, and authority of the department of agriculture.

(e) The functions and authority heretofore exercised by the board of commissioners of agriculture and forestry (except the management of state parks and the conservation, development and utilization of forest resources, including regulatory powers over the forest reserve provided in section 183-41, and of fish and game resources transferred to the department of land and natural resources), by the farm loan board as heretofore constituted, and by the [university] University of Hawaii with respect to the crop and livestock reporting service and market news service, are transferred to the department of agriculture established by this chapter.”

SECTION 2. Section 26-17, Hawaii Revised Statutes, is amended to read as

follows:

**“§26-17 Department of Hawaiian home lands. (a)** The department of Hawaiian home lands shall be headed by an executive board to be known as the Hawaiian homes commission.

The commission shall consist of [seven] eight members including the chairman selected in accordance with section 26-34 and section 202(a) of the Hawaiian Homes Commission Act of 1920, as amended. [The governor shall appoint the chairman of the commission from among the members.]

**(b)** The commission may delegate to the chairman such duties, powers, and authority, or so much thereof as may be lawful or proper, for the performance of the functions vested in the commission.

The chairman of the board shall serve in a full-time capacity and shall perform such duties, and exercise such powers and authority, or so much thereof as may be delegated to him by the board.

**(c)** The department shall administer the Hawaiian Homes Commission Act of 1920 as set forth in the Constitution of the State and by law.

The functions and authority heretofore exercised by the Hawaiian homes commission as heretofore constituted are transferred to the department of Hawaiian home lands established by this chapter.”

SECTION 3. Section 39A-116, Hawaii Revised Statutes, is amended to read as follows:

**“[[ ]§39A-116[ ]] Issuance of special purpose revenue bonds to finance projects. (a)** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance, in whole or in part, the costs of facilities of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

**(b)** The department, in determining the cost of any project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project;
- (2) Interest on such bonds and the expenses of the State in connection with such bonds and the project to be financed from the proceeds of such bonds accruing or incurred prior to and during the estimated period of construction and not exceeding twelve months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and



- (9) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, maintenance, or extension of the project, the financing, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

(c) The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to a [manufacturing] processing enterprise and that the issuance of special purpose revenue bonds to finance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest."

SECTION 4. Section 39A-208, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For the purpose of public disclosure, the public utilities commission, in every rate proceeding involving a public utility which has utilized special purpose revenue bonds, shall make estimates of (A) the probable amounts which would have been incurred by the utility as capital costs if financing by means other than special purpose revenue bonds were utilized, (B) the amount the utility pays for such bonds, including the principal and sinking fund requirements, the interest, and other expenses appropriately attributable to special purpose revenue bond financing, and (C) the difference between (A) and (B), or the estimated savings realized by the consumers of the utility services."

SECTION 5. Section 42-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Funds for each grant, subsidy, or purchase of service agreement that are not included in the budget submitted by the chief executive to the legislature may be appropriated by a separate bill; provided that all appropriations are based on a request reviewed in accordance with section 42-4(d) or [[ ]42-5(c)[ ]]. The bill shall specify whether a grant, subsidy, or purchase or service is being made, name the recipient in the case of a grant or subsidy, and define the public purpose to be served by the appropriation. Funds shall be appropriated by "cost categories" and "cost elements" as defined in section 37-62."

SECTION 6. Section 88-122, Hawaii Revised Statutes, is amended to read as follows:

"**§88-122 Determination of employer normal cost and accrued liability contributions.** (a) Based on regular interest and such mortality and other tables as are adopted by the board of trustees, the actuary engaged by the board [shall], on the basis of successive annual actuarial valuations, shall determine the employer's normal cost and accrued liability contributions for each fiscal year beginning July 1 separately for the following two groups of employees: [police]

(1) Police officers, firefighters, and corrections officers[.]; and [all]

(2) All other employees.

(b) The actuarial valuations made for years ending on June 30, 1980, 1981, and 1982, shall be based on a seven per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system. The actuarial valuations made for years ending on June 30, 1983 and there-

after shall be based on a four and one-half per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system.

[(1)] (c) With respect to each of the [aforesaid] two groups of employees[,] in subsection (a), the normal cost for each year after June 30, 1976 shall be the percentage of the aggregate annual compensation of employees as of March 31 of the preceding year which, if contributed over each employee's prospective period of service and added to his prospective contributions, will be sufficient to provide for the payment of all future benefits after subtracting the sum of the unfunded accrued liability as of the beginning of the year and the assets of the pension accumulation fund as of the end of the preceding year. One each June 30 the board shall determine the allocation of the assets of the pension accumulation fund between the [aforesaid] two groups of employees[;] in subsection (a); provided that the assets of the pension accumulation fund as of June 30, 1976 shall be allocated between the two groups in the same proportion as the aggregate annual compensation of each group as of March 31, 1976.

[(2)] (d) The total unfunded accrued liability as of July 1, 1976 shall be fixed at \$239,000,000, and shall be allocated as follows: \$32,000,000 to police officers, firefighters, and corrections officers, and \$207,000,000 to all other employees. With respect to each of the [aforesaid] two groups of employees[,] in subsection (a), the accrued liability contribution for each [[year]] after June 30, 1976 shall be the level annual payment required to liquidate such unfunded accrued liability over the remainder of the period of fifty years beginning July 1, 1964."

SECTION 7. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No person who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section [712,] 712-1240, or intoxicating liquor;
- (2) Has been committed pursuant to section 333-27, 333-35, or 333-35.5;
- (3) Has been admitted to and detained at a psychiatric facility pursuant to chapter 334, part IV or V;
- (4) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (5) Is or has been under treatment for significant behavioral, emotional or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless [such] the person has been medically documented to have been cured of the addiction, mental disease, disorder, or defect."

SECTION 8. Section 150-41, Hawaii Revised Statutes, is amended to read as follows:

"[[§150-41]] **Seed distribution program; revolving fund.** There is established a revolving fund the purpose of which shall be to enable the seed distribution program to operate at a level which will adequately meet the demand for seed. The

fund shall be used for the cultivation and production of seeds and for research and developmental purposes directly related to such cultivation and production. The fund shall be administered by the college of tropical agriculture[,] and human resources. All sums withdrawn from the fund shall be reimbursed or restored thereto from the proceeds realized through the sale of seeds. The college of tropical agriculture and human resources shall submit an annual report summarizing receipt and expenditures and the fund balance of the revolving fund to the department of budget and finance. The first annual report shall be due within six months following the initial twelve-month period that the revolving fund is in operation and shall be due annually thereafter not later than September 30 following the end of the immediately preceding fiscal year.

[There is appropriated out of the general revenues of the State of Hawaii the sum of \$35,000, to be deposited in the seed distribution revolving fund. Any funds in excess of \$35,000 at the end of each fiscal year shall be remitted] The seed distribution revolving fund shall remit any moneys in excess of \$35,000 to the state general fund[,] at the end of each fiscal year."

SECTION 9. Section 188-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) It is unlawful to deposit in, permit to pass into, or place where it can pass into the state waters for the purpose of taking aquatic life any of the following:

- (1) Any petroleum, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum or carbonaceous material or substance;
- (2) Hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders;
- (3) Preparations containing rotenone, tephrosin, or plant materials from *Barringtonia asiatica*, *Cocculus ferrandianus*, *Hura crepitans*,  *Piscidia*  *erythrina*, *Tephrosia*  *purpurea*   *Wikstroemia* ; and
- (4) Any other substance or material deleterious to aquatic life; except under the terms and conditions of a permit first obtained by the user from the department.

The department may issue permits to allow the possession of stated amounts of these substances poisonous to aquatic life if the department deems the amount in possession is for legitimate purposes or in quantities too small to harm aquatic life.

The possession of these substances without a permit by any person on or near the water where fish can be taken, or aboard any fishing vessel or boat is prima facie evidence of a violation of this section.

The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.

Nothing in this section shall be held or construed to be an amendment of the rules of the department of transportation."

SECTION 10. Section 199-4, Hawaii Revised Statutes, is amended to read as follows:

“§199-4 Board of land and natural resources, police powers. (a) The board of land and natural resources shall have police powers and may appoint and commission enforcement officers within the conservation and resources enforcement program. Persons appointed and commissioned under this section shall have and may exercise all of the powers and authority of a police officer, including the power of arrest, and shall enforce all state laws and rules, and county ordinances within all state lands, state shorewaters and shores, and county parks; provided that such powers shall remain in force and effect only while in actual performance of their duties, which [duties] shall include off-duty employment when such employment is for other state departments or agencies. These enforcement officers shall consist of personnel whose primary duty will be the enforcement of title 12, entitled “Conservation and Resources,” and the rules [promulgated] adopted thereunder within the areas the jurisdiction of the department of land and natural resources.

(b) An enforcement officer, upon arresting any person for violation of title 12 and rules [promulgated] adopted thereunder, [[ ]may[ ]] immediately take the person arrested to a police station or before a district judge, or take the name, address, and the number of the fishing, hunting, or other licenses or permits, if any, of the person, and note the violation of [such] the law or rule by the person, and issue him a summons or citation, printed in the form described in section 199-5, warning him to appear and to answer to the charge against him at a certain place and time within seven days after the arrest. Any person failing to obey a summons issued pursuant to this section shall be subject to section 199-6.”

SECTION 11. Section 206J-3, Hawaii Revised Statutes, is amended to read as follows:

“[[ ]§206J-3[[ ] Aloha Tower complex; designated boundaries. Being portions of Honolulu Harbor (Governor’s Executive Order No. 1793), Irwin Memorial Park (Governor’s Executive Order No. 472), Fort Street and Ala Moana

Being also portions of:

L.P. 8489 L.C.Aw. 11219 to the Hawaiian Government, Sea Boundary of “Kaakaukukui” R.P. 4483 L.C.Aw. 7712 Apana 6 No. 1 to M. Kekuanaoa no V. Kama-malu, R.P. 4532 L.C.Aw. 9971 Parts 1 and 2 to W.P. Leleiohoku and L.C.Aw. 1784 Parts 1 and 2 to James Robinson,

Exchange Deed: Minister of Interior to Samuel C. Allen dated December 21, 1897 and recorded in Liber 173, Pages 432-434,

Grant 1753 No. 2 to William Miller,

Land Court Application 787

Land situated at Kaakaukukui and Waikahalulu, Honolulu, Oahu, Hawaii

Beginning at the most Northerly corner of this piece of land, on the West side of the present Nimitz Highway (Honolulu-Pearl Harbor Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station “Punchbowl” being 1,160.55 feet South and 5,210.56 feet West, thence running by azimuths measured clockwise from true South:

1. 6° 00’ 1.45 feet along the West side of the present Nimitz Highway;
2. 276° 00’ 5.50 feet along same;
3. 6° 00’ 28.00 feet along same;

4. 6° 00' 50.00 feet along same;
5. 6° 00' 241.10 feet along same;
6. 6° 00' 35.00 feet along same;
7. Thence along same on a curve to the right with a radius of 110.00 feet, the chord azimuth and distance being 12° 20' 25" 24.30 feet;
8. Thence along same on a curve to the right with a radius of 60.66 feet, the chord azimuth and distance being 26° 18' 40" 16.11 feet;
9. 59° 35' 22.85 feet along the Westerly side of the present Nimitz Highway;
10. 329° 35' 72.15 feet along same;
11. Thence along same on a curve to the right with a radius of 72.00 feet, the chord azimuth and distance being 294° 10' 02" 83.45 feet;
12. 329° 35' 226.07 feet along the Westerly side of the present Nimitz Highway;
13. Thence along same on a curve to the right with a radius of 72.29 feet, the chord azimuth and distance being 11° 12' 30" 96.04 feet;
14. 52° 50' 120.37 feet along the Northerly side of Bishop Street;
15. 52° 50' 69.73 feet along same;
16. 52° 50' 110.32 feet across Ala Moana;
17. 149° 35' 29.33 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793), the true azimuths and distances to a "+" cut on concrete (found and adopted) being (a) 149° 35' 2.36 feet and (b) 239° 35' 2.00 feet;
18. 59° 34' 594.52 feet along same;
19. Thence along same on a curve to the right with a radius of 12.98 feet, the chord azimuth and distance being 116° 17' 45" 21.70 feet;
20. 173° 01' 30" 608.15 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793);
21. 228° 25' 495.96 feet along same;
22. 318° 25' 0.94 of a foot along same;
23. 228° [[25'[]]] 459.72 feet along same to the point of beginning and containing an area of 567,442 square feet or 13.027 acres.

Vehicle access shall not be permitted into and from Nimitz Highway (Honolulu-Pearl Harbor Road) and Bishop Street, over and across Courses 1, 2, 3, 5, 8, 9, 11, 12, 13, and 14 of the above described Aloha Tower Plaza."

SECTION 12. Section 206J-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The development corporation, with the approval of the governor, may issue bonds in such amounts as authorized from time to time by law and as deemed

advisable for any of its corporate purposes. The principal of, premium, if any, and interest on such bonds shall be payable; except as limited by section 206J-5(16):

- (1) Exclusively from the moneys derived from rates, rentals, fees, and charges of the project financed with the proceeds of such bonds, or from such moneys together with any grant from the government in aid of such project; or
  - (2) Exclusively from the moneys derived from rates, rentals, fees, and charges of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds; or
  - (3) From its moneys derived from rates, rentals, fees, and charges generally.
- The bonds shall be secured by a pledge of such revenue and may be additionally secured by a mortgage of any project or other property of the development corporation to the extent of its interest therein. Neither the ~~[[ ]~~board members~~[[ ]~~ nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.”

SECTION 13. Section 286-5, Hawaii Revised Statutes, is amended to read as follows:

“**§286-5 State highways safety council.** There is established the Hawaii highway safety council. The [state] director of transportation shall serve as its chairman. ~~[Together with the director of transportation, the]~~ The following or their designated representatives shall be members of the council: the chief justice, the attorney general, the director of health, ~~[the director of transportation,]~~ the superintendent of education, the president of the University of Hawaii, the chairman of each of the county highway safety councils established under section 286-6, and not more than twenty other persons who shall be appointed by the governor on the basis of their interest in highway safety.

The state highway safety council shall advise the governor on matters relating to the programs and activities of the State in the field of highway safety.

~~[Except for the state director of transportation, the]~~ The members of the council shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in discharge of their duties.”

SECTION 14. Section 298-5, Hawaii Revised Statutes, is amended to read as follows:

“**§298-5 Public schools special fees and charges[.]; standards; grouping of students.** (a) No equipment, material, or other fees shall be assessed against any pupil in any school, except that the department of education may assess and collect special fees and charges from pupils who negligently break, damage, lose, or destroy equipment and supplies. Any pupil found to be responsible for loss, destruction, breakage, or damage to school books, which shall include library and textbooks, shall make restitution to the school in any manner including the payment by the pupil or the pupil’s parents of the actual replacement costs of the books.

(b) No pupil shall be required to make restitution in any manner, unless the pupil and the pupil’s parents and guardians have been notified and have been given an opportunity to be heard before the principal of the school on the charges that the pupil was responsible for the loss, destruction, breakage, or damage to school books.

(c) If the principal, upon a hearing on the charges, has reasonable cause to believe that the pupil is responsible for the loss, destruction, breakage, or damage to school books, he shall design a restitution program which shall be submitted to the pupil, and his or her parents or guardian for agreement in writing.

If restitution is made in this fashion, then all records and documents regarding the charges and hearing shall be destroyed. No information about the charges, hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall preserve all the records and documents regarding the charges and hearing and shall report to the district superintendent of the determination made by the principal for any further action.

(d) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this [ ]section[ ] shall limit the right of the State to bring [such] any action against any person to recover [such] the damages.

(e) The fees or charges shall be deposited in a separate fund and expended by the department under such rules [and regulations] as it may prescribe.

(f) The department shall raise the standards of all public schools to the level of the English standard system starting in September 1949, and continue these adjustments annually, until all the schools of the State are raised to the level of a single standard system.

The department may continue to group pupils within any public school in accordance with their abilities and educational needs.”

SECTION 15. Section 326-25, Hawaii Revised Statutes, is amended to read as follows:

“§326-25 **Accounts, reports.** The department of health shall keep an accurate and detailed account of all sums of money expended by it. The department shall report to the legislature at its regular sessions, such expenditures in detail, together with such information regarding [leprosy] Hansen’s disease as it may deem to be of interest to the public.”

SECTION 16. Section 326-26, Hawaii Revised Statutes, is amended to read as follows:

“§326-26 **Who allowed at settlement.** No person, not having Hansen’s disease, shall be allowed to visit or remain upon any land, place, or inclosure set apart by the department of health for the isolation and confinement of persons affected with [ ]Hansen’s disease[ ], without the written permission of the director of health, or some officer authorized thereto by the department, under any circumstances whatever, and any person found upon such land, place, or inclosure without a written permission shall be fined not less than \$10 nor more than \$100 for such offense; provided that any patient resident of Kalaupapa desiring to remain at the settlement shall be permitted to do so for as long as he may choose, regardless of whether or not he has been successfully treated.”

SECTION 17. Section 346-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If a recipient under this chapter dies after leaving an estate and does not

have a surviving spouse, child, father, mother, grandfather, grandmother, grandchild, stepfather, stepmother, or any designated heir, the department may file a claim against the estate for the amount of social services payments, [money payments,] financial assistance, or burial payments granted, and the claim shall be allowed. The department may file a claim against the estate of a deceased recipient of medical assistance for the amount of medical assistance granted, only if the recipient was age sixty-five or over when such medical assistance was received and there is no dependent surviving spouse, or dependent child under twenty-one years of age, or is blind, or disabled.”

SECTION 18. Section 353-17, Hawaii Revised Statutes, is amended to read as follows:

“**§353-17 Transfer of prisoners affected with [leprosy.] Hansen’s disease.** Upon [receipt of a certificate of the department of health that the prisoner has been declared a person affected with leprosy in the manner provided for in section 326-8, and upon] written recommendation of the director of health that [the] a prisoner who is determined to be a Hansen’s disease sufferer be removed to any hospital, settlement, or place for care and treatment of [persons affected with leprosy] Hansen’s disease sufferers as designated by the director of health for such specialized care and treatment, the director of social services may direct any official having custody of any prisoner convicted of a felony and incarcerated in a state correctional facility to cause the prisoner to be removed to any hospital, settlement, or place for care and treatment of [persons affected with leprosy] Hansen’s disease sufferers as designated by the director of health for such specialized care and treatment, [there to be kept] until discharged under chapter 326 or until the maximum sentence (with deduction for good time and commutation of sentence) has been served. Any such prisoner who may be discharged before the maximum term of imprisonment shall be returned to the state correctional facility from which he was removed. Any such person who has served his maximum sentence before he is discharged under chapter 326 shall remain in the custody of the director of health until lawfully discharged or removed by his direction or permission. Supervision, care, and treatment of the prisoner transferred to any hospital, settlement, or place for the care and treatment of [persons affected with leprosy] Hansen’s disease sufferers shall be governed by the rules, policies, and procedures of the department of health.”

SECTION 19. Section 383-170, Hawaii Revised Statutes, is amended to read as follows:

“**§383-170 Eligibility requirements for extended benefits.** (a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the department finds that with respect to [such] that week:

- (1) He is an “exhaustee” as defined in section [[ ]383-168(12)[.]; and
- (2) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

[(3) (A)] (b) Notwithstanding the provisions of [paragraph (2) of this



section,] subsection (a)(2), an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if the department finds that during such period:

[(i)] (1) He failed to accept any offer of suitable work or failed to apply for any suitable work (as defined under [subparagraph (C)]) subsection (d) to which he was referred by the department; or

[(ii)] (2) He failed to actively engage in seeking work as prescribed under [subparagraph (E)] subsection (f).

[(B)] (c) Any individual who has been found ineligible for extended benefits by reason of the provisions in [subparagraph (A)] subsection (b) shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times the extended weekly benefit amount.

[(C)] (d) For purposes of [this paragraph,] subsections (b) through (g), the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; provided that:

[(i)] (1) The gross average weekly remuneration payable for the work shall exceed the sum of the individual's extended weekly benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(c)(17)(D) of the federal Internal Revenue Code of 1954, as amended) payable to such individual for such week; and

[(ii)] (2) The work pays wages equal to the higher of the minimum wages provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or the state or local minimum wage; and

[(iii)] (3) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability described [above] in this subsection if the position was not offered to such individual in writing and was not listed with the employment service; or such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 383-30(3) to the extent that the criteria of suitability in that section are not inconsistent with this [subparagraph (C);] subsection; or the individual furnishes satisfactory evidence to the department that the individual's prospects of obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 383-30(3) without regard to the definition specified in this [subparagraph.] subsection.

[(D)] (e) Notwithstanding the provisions of [this paragraph] subsections (b) through (g) to the contrary, no work shall be deemed to be suitable work for an individual which does not conform with the labor standard provisions required by section 3304(a)(5) of the federal Internal Revenue Code of 1954, as

amended, and set forth under section 383-30(3).

[(E)] (f) For the purposes of [subparagraph (A)(ii), ] subsection (b)(2), an individual shall be treated as actively engaged in seeking work during any week if:

[(i)] (1) The individual has engaged in a systematic and sustained effort to obtain work during such week; and

[(ii)] (2) The individual furnishes tangible evidence that he has engaged in such effort during such week.

[(F)] (g) The employment service shall refer any claimant entitled to extended benefits under this chapter to any suitable work which meets the criteria prescribed in [subparagraph (C).] subsection (d).”

SECTION 20. Section 406-1, Hawaii Revised Statutes, is amended to read as follows:

“§406-1 Trust company defined. The term “trust company” as used in this chapter means any corporation or joint-stock company, organized[,] under the general laws of the State, which has obtained from the director of regulatory agencies a certificate that it is qualified to act as a trust company under section [406-2.] 406-1.5.”

SECTION 21. Section 408-8, Hawaii Revised Statutes, is amended to read as follows:

“§408-8 Application for license; investigation fee. (a) Any company required or desiring to obtain a license to operate under this chapter shall file an application, in writing, under oath, with the bank examiner, in the form prescribed by the bank examiner, which shall contain:

- (1) The full name and address of the applicant, and, if the applicant is a firm, of every member thereof, or, if the applicant is a corporation, of every officer thereof;
- (2) The county and town with street and number where the business is to be conducted; and
- (3) Such other information as the bank examiner may require.

(b) The applicant shall pay to the director of regulatory agencies at the time of filing of an application for license an investigation fee of \$1,000, which shall not be refundable. Licensees who apply for the relocation of their present offices shall pay to the director an investigation fee of \$50, which shall not be refundable.

[Conditions for approval.] (c) Upon the filing of the application, if the bank examiner upon investigation finds:

- (1) That the financial responsibility, experience, character, and general fitness of the applicant and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter;
- (2) That allowing the applicant to engage in this business will promote the convenience and advantage of the locality or community in which the business of the applicant is to be conducted;
- (3) That the applicant has available for the operation of this business at the specified location capital of at least \$100,000; and

- (4) That allowing the applicant to engage in this business will not substantially lessen competition or tend to create a monopoly or in any other manner be in restraint of trade,

then the bank examiner shall write upon the face of the application the fact that he has approved the same, together with the date, and affix his signature. The application shall then be returned to the applicant who [shall], upon receipt of an approved application, shall transmit it within thirty days to the director who shall file and preserve the application.

[Review of disapproval.] (d) No application shall be disapproved except after the applicant has had a notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the bank examiner [shall], within twenty days thereafter, shall prepare and keep on file in his office, a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicant a copy [thereof.] of the order of denial. Within ten days after the receipt of the copy, the applicant may appeal from the order of denial to a board consisting of the director of regulatory agencies, comptroller, and attorney general by filing with the comptroller a notice of appeal. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the board shall file with the comptroller its decision in writing either ordering the bank examiner to approve the application or affirming his action in disapproving the same. A copy of the decision or order of the board shall forthwith be served upon the applicant by the bank examiner. The applicant may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicant proposes to establish an office, as provided in chapter 91.”

SECTION 22. Section 408-14, Hawaii Revised Statutes, is amended to read as follows:

“§408-14 **Specific powers.** (a) Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, or by any other provision of this chapter, shall possess and may exercise the following powers:

- (1) To borrow money upon its own secured or unsecured notes;
- (2) To lend money upon individual credit or upon the security of comakers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount, or other consideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering, or servicing of such loans or contracts;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action, notwithstanding section 416-31 to the contrary;
- (4) To establish branches within the State with the prior written approval of the bank examiner;
- (5) To finance purchases for others by taking title to merchandise tem-

porarily and only for the purpose of securing loans entered into for the purchases; and

- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, including without limitation evidences of thrift accounts as defined in chapter 408A, and to receive amounts invested therein in installments or otherwise, with or without allowance of interest on such investments. A company may, but need not, require an investor to subscribe to a certain amount of investment in such certificates, subject to minimum or maximum investments required by law or [regulation.] rules. Nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand.

(b) The certificates[,] in subsection (a), including the evidence of [such] the thrift accounts, shall not be issued by any [such] industrial loan company without receiving the prior written approval of the bank examiner, and shall bear upon the face of the instrument the words, "THIS IS NOT A CERTIFICATE OF DEPOSIT."

(c) No industrial loan company shall have outstanding at any time its certificates [and/or its], debentures, or both registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus; provided that the bank examiner shall have the authority to limit the ratio of certificates [and/or], debentures, or both to capital and surplus which may be issued by any industrial loan company if he determines that [such] the lower ratio is necessary in the public interest. In determining the ratio to be permitted, the bank examiner shall consider all relevant circumstances, including, without limitation, the following factors:

- (1) The length of time the company has been in operation[.];
- (2) Ratio of losses to volume of loans made and contracts purchased[.];
- (3) The creation and maintenance of adequate reserve for losses[.];
- (4) Charge-off of uncollectible accounts[.];
- (5) The amount or growth of undivided profits [and/or], earned surplus[.], or both;
- (6) Diversification of character and source of loans made and contracts purchased[.];
- (7) Creation and maintenance of adequate internal controls[.]; and
- (8) Sound and efficient management.

(d) Every industrial loan company [shall], as of January 1, 1977, shall maintain and have on hand at all times a reserve composed of cash and other securities in an amount equal to the sum of five per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more, and after January 1, 1978, maintain and have on hand at all times the above-mentioned reserve in an amount equal to the sum of seven per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more. [Said] The reserve shall not be pledged.

This reserve shall be determined as of a particular date and shall be based upon the daily average of all outstanding certificates and debentures of the immediate preceding seven calendar days. During a succeeding seven calendar day period, the average daily balance of [said] the reserve shall equal or exceed [such] the reserve amount. At the end of the seven calendar day period, a new reserve amount shall be determined based upon the daily average of the immediate preceding seven calendar days and for the next succeeding seven calendar day period, the average daily balance of [said] the reserve shall equal or exceed such new amount. Determination of reserve requirements shall be made on [form] forms approved by the bank examiner and shall be computed within two working days after the date of determination. Upon any failure to maintain the reserve requirement for the required seven calendar day period, the industrial loan company shall [promptly]:

- (1) Promptly take action to correct the reserve deficiencies[, shall cease];
- (2) Cease making any loans or other advances or extensions of credit until the reserve deficiency is corrected[, and shall notify]; and
- (3) Notify the bank examiner within two working days after the close of the period.

The bank examiner may in writing direct specific directors and officers of any industrial loan company in violation of this section to take actions reasonably necessary to increase its reserve so as to comply with this section.

(e) Cash reserves shall be limited to cash in banks and on hand, bank or savings and loan certificates of deposit, direct United States, state, or county government securities, and passbook deposits in banks or savings and loans[; and such]. The cash reserve shall at all times equal no less than fifty per cent of the [aforementioned] reserve that is required by this section.

(f) Other securities shall be limited to direct obligations of the United States government, state, or county, bankers acceptances approved by the bank examiner, irrevocable lines of credit in a form acceptable to the bank examiner, and securities listed on the New York stock exchange or the American stock exchange [and no]. Not more than twenty-five per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange or the American stock exchange.”

SECTION 23. Section 417-3, Hawaii Revised Statutes, is amended to read as follows:

“**§417-3 Agreement; approval of board of directors.** (a) The board of directors of each constituent corporation shall prepare for consideration by the stockholders a proposed merger or consolidation agreement which shall set forth [that]:

- (1) That the constituent corporations are to become a single new corporation, or that one or more of the constituent corporations are to be merged into a specified constituent corporation; [the]
- (2) The terms and conditions of the merger or consolidation and the mode of carrying the same into effect; [the]
- (3) The names and addresses of the first directors and officers of the surviving or consolidated corporation and their respective terms of

office; [the]

- (4) The amount of the capital stock of the surviving or consolidated corporation, and if the privilege of subsequent extension of the capital stock is asked for, the limit of the extension; [the]
- (5) The preferences, voting powers, restrictions, and qualifications of all classes of stock of the surviving or consolidated corporation, if there is to be more than one class of stock; and [the]
- (6) The manner and basis of converting the shares of each of the constituent corporations into shares of the surviving or consolidated corporation.

(b) The agreement may also provide for the distribution or exchange of cash or any other property, assets, or shares of stock of any other corporation held as an asset by any constituent corporation, in whole or in part, in lieu of or partially in lieu of shares of the surviving consolidated corporation to stockholders of the constituent corporations or any class of them; but nothing in this part shall be deemed to authorize the distribution or exchange of cash, or other property, assets, or shares of stock of any other corporation held as an asset by any constituent corporation to the stockholders of any constituent corporation (except in payment of dissenting stockholders for their shares under sections 417-19 to 417-30) unless after giving effect to any such distribution or exchange of cash, or other property, assets, or shares of stock of any other corporation held as an asset by any constituent corporation, the liabilities of the surviving or consolidated corporation, including those derived by it from the constituent corporations, plus the amount of the capital stock of the surviving or consolidated corporation do not exceed the value of the remaining assets and property of the surviving or consolidated corporation, and unless the liabilities of the surviving or consolidated corporation, including those derived by it from the constituent corporations, are less in amount than one-half the value of the remaining assets and property of the surviving or consolidated corporation.

(c) The agreement may also provide the time or conditions, upon the happening of which the agreement shall be executed and filed as herein provided. The agreement may also provide that the name of the consolidated corporation shall be the same as the name of a constituent corporation.

(d) If the agreement is for a consolidation, it shall state therein or incorporate as part thereof, by reference and exhibit number, complete articles of association as is required by chapter 416 in the case of the formation of new corporations (except that the name of the incorporators [and the affidavit referred to in section 416-15] shall not be required). These articles of association shall be deemed to be the articles of association of the consolidated corporation upon the filing of consolidation agreement in the office of the director of regulatory agencies as hereinafter provided. The articles of association of the consolidated corporation may contain all the powers and privileges that could be lawfully conferred or obtained in original articles of association.

(e) If the agreement is for a merger, it shall state any matters with respect to which the articles of the surviving corporation are proposed to be amended, and shall set forth or incorporate as part thereof, by reference and exhibit number, the proposed articles of association as amended, and the articles shall be deemed to be the amended articles of association of the surviving corporation upon the filing of

the merger agreement in the office of the director as hereinafter provided. The amended articles of association of the surviving corporation may provide for the extension of the term of its corporate existence, and may contain all the powers and privileges that could be lawfully conferred or obtained in original articles of association.

(f) Prior to its execution, the proposed merger or consolidation agreement shall be approved by the board of directors of each constituent corporation. The approval may be given either before or after the approval or authorization of the stockholders as herein provided.”

SECTION 24. Section 453-11, Hawaii Revised Statutes, is amended to read as follows:

“§453-11 **Recalcitrant witnesses; contempt.** If any person called before the board as a witness in any [such] proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member thereof or the person whose license is sought to be revoked, limited, or suspended in [such] the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and [such] the person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court under [chapter 729.] section 710-1077.”

SECTION 25. Section 577-26, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Notwithstanding any other law to the contrary, no spouse, parent, custodian, or guardian, whose consent has not been obtained or who has no prior knowledge that the minor has consented to the provision of such counseling services for alcohol or drug abuse shall be liable for the costs incurred by virtue of the minor’s consent.”

SECTION 26. Section 712-1211, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of displaying indecent matter if [[ ]he[ ]] knowingly or recklessly displays on any sign, billboard, or other object visible from any street, highway, or public sidewalk,<sup>2</sup> a photograph, drawing, sculpture, or similar visual representation of any person of the age of puberty or older:

- (a) Which reveals the person with less than a fully opaque covering over his or her genitals, pubic area, or buttocks, or depicting the person in a state of sexual excitement or engaged in an act of sexual conduct or sado-masochistic abuse; and
- (b) Which is presented in such a<sup>2</sup> manner as to exploit lust; and
- (c) Which lacks serious literary, artistic, political, or scientific value.”

SECTION 27. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1982, whether enacted before or after the effective date of this Act, unless such other acts specifically provide otherwise.

SECTION 28. Statutory material to be repealed is bracketed. New material

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is underscored.

SECTION 29. This Act shall take effect upon its approval, except for section 6, which shall take effect on July 1, 1982.

(Approved May 28, 1982.)

Notes

- 1. The period after "Aw" should be underscored.
- 2. Should not be underscored.

ACT 148

H.B. NO. 2148-82

A Bill for an Act Amending Chapter 142, Hawaii Revised Statutes, Relating to Animals, Brands, and Fines.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 142, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§142- **Garbage feeding prohibited; penalty.** (a) The feeding of garbage to swine is prohibited, unless:

- (1) A permit to process (cook) garbage for such use is obtained from the department of agriculture's division of animal industry; and
- (2) The garbage has been processed (cooked) under conditions and procedures established by departmental rules.

(b) Any person who violates the provisions of subsection (a) of this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved May 28, 1982.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 149

H.B. NO. 2149-82

A Bill for an Act Relating to Brands and Amending Section 142-41, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 142-41, Hawaii Revised Statutes, is amended to read:

"§142-41 **Brands to be recorded, etc.** Every owner of livestock in the State shall have his brand or mark, in order to secure its validity and individuality, recorded in a separate book kept for that purpose by the department of agriculture to be known as the "Hawaii Brand Book." No brand or mark shall be recorded which may be similar or approximate in design to any brand or mark which has been previously recorded. The fee for each application for registration shall be [\$1.]



established by rule adopted pursuant to chapter 91. The application may be made directly to the department, through its duly authorized agents, or through any duly authorized police officer. The chief of police of the respective counties shall authorize police officers to receive applications for registration of brands under this section. All moneys so received shall be paid to the director of finance. A signed and dated receipt shall be issued for each paid application. All applications shall be promptly forwarded to the department. If it is determined that the application seeks the registration of a brand which either has not already been recorded by another person or is not similar in design to any other previously recorded brand which has not expired, then a certificate showing that such brand or mark has been duly recorded shall be issued forthwith to the applicant. No record shall be made of any ear mark, except only as supplemental identification of a brand. Numerals from 1 to 9 and 0, not used in combination or with symbols, as a brand, shall not be subject to preemptive use but shall be the common property of all persons."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 28, 1982.)

## ACT 150

H.B. NO. 2870-82

A Bill for an Act Relating to Sensitivity-Awareness Groups.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that complaints and inquiries have been received by agencies, such as the Office of Consumer Protection and Better Business Bureau, relating to various sensitivity-awareness group seminars, including but not limited to seminars sponsored by PSI World, EST, Silva Mind Control, Church of Scientology, Transcendental Meditation, Arica, and rebirthing.

The purpose of this Act is to provide some protection to consumers involved in these seminars, who are often induced to enter into contracts after having been rendered vulnerable through introductory sessions with sensitivity-awareness groups.

SECTION 2. Chapter 481B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§481B- Refunds; offer of services.** (a) Any person who deposits any money to attend a sensitivity-awareness group seminar and before the first day of the seminar, requests to cancel his or her right to attend and requests a refund of moneys deposited or paid, shall be refunded in full less identifiable non-recoverable costs not to exceed the lesser of \$50 or 20 per cent of the price of the course, by the sensitivity-awareness group. Any person who while attending or after completing a sensitivity-awareness seminar, deposits any money to attend subsequent seminars of a sensitivity-awareness group and within five days of making the deposit or before the first day of the subsequent seminar, whichever occurs later, requests to

cancel his or her right to attend and requests a refund of moneys deposited or paid, shall be refunded in full less identifiable non-recoverable costs not to exceed the lesser of \$50 or 20 per cent of the price of the course, by the sensitivity-awareness group. Any offering of a sensitivity-awareness group seminar by a representative of the sensitivity-awareness group sponsoring the sensitivity-awareness group seminar shall disclose to the offeree these rights of refund.

For purposes of this section, "sensitivity-awareness groups" includes any individual, associated group of persons, or organizations which advertise or assert that attendance by persons at seminars, meetings, training sessions, therapy sessions, or the like sponsored by the individual, group, or organization, will help the persons attending have greater self-awareness or awareness of others, greater self-understanding or understanding of others, or greater capacity for life adjustment or success in life; provided that psychological or psychotherapeutic techniques are used as part of the individual's, group's, or organization's methodology at the seminars, meetings, training sessions, therapy sessions, or the like. The term "sensitivity-awareness groups" does not include certified psychologists, or psychologists with a temporary permit, in accordance with chapter 465 or a psychiatrist licensed in accordance with chapter 453, who teach, direct, administer, conduct, preside over, or are similarly involved in seminars, meetings, training sessions, therapy sessions, or the like.

"Sensitivity-awareness group seminars" means any seminar, meeting, training session, therapy session, or the like sponsored by a sensitivity-awareness group for which monetary compensation is required from persons to attend.

(b) Any violation of this section shall constitute an unfair method of competition and unfair or deceptive act or practice in the conduct of any trade or commerce under section 480-2."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon approval.

(Approved May 28, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Making Appropriations for Compensation Claims Adjustments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In PEMAH et al. v. State et al., First Circuit Civil No. 65791, the First Circuit Court declared that the portions of sections 89C-2(2) and (3), Hawaii Revised Statutes, which limited the compensation of certain public officers and employees excluded from collective bargaining to 95% of the maximum salary allowable by law to either the first deputy of the head of a state department or the president of University of Hawaii, was unconstitutional. The Court, therefore, entered judgment awarding the affected officers and employees back pay and commensurate adjustments in fringe benefits for the period from May 26, 1979 to June

30, 1981.

The purpose of this Act is to appropriate the funds necessary to pay off the judgment entered by the First Circuit Court of the State of Hawaii in favor of certain state officers and employees.

SECTION 2. There is hereby appropriated or authorized from the sources of funding indicated below to the Program Planning, Analysis, Budgeting and Coordination Program (BUF 101) the following sums, or so much thereof as may be necessary, for the purposes of satisfying the judgment entered by the First Circuit Court in PEMAH et al. v. State et al. (Civil No. 65791):

GENERAL FUND:	\$241,409
FEDERAL FUNDS:	486
SPECIAL FUNDS:	10,014
OTHER FUNDS:	372

SECTION 3. Funds appropriated by this Act shall be paid to the state officers and employees listed in the judgment entered in Civil No. 65791, in the respective amounts set forth in the judgment, by warrants issued by the state comptroller, upon vouchers approved by the state director of finance.

SECTION 4. Payment to any officer or employee, whose compensation is paid, in whole or in part, from federal, special or other funds, shall to the extent possible be paid wholly or proportionately as the case may be, from those funds.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

## ACT 152

S.B. NO. 2607-82

A Bill for an Act Relating to Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend chapters 89C, 78, and 77, Hawaii Revised Statutes, to provide for changes in the procedures established for adjusting the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees excluded from coverage under section 89-6(c), Hawaii Revised Statutes.

SECTION 2. Section 89C-2, Hawaii Revised Statutes, is amended to read as follows:

**“[[§89C-2]] Adjustments authorized; limitations, restrictions.** Any provision of law to the contrary notwithstanding, the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents, or the chief justice, as applicable. The chief executives, the board of education, the board of regents, and the chief justice, or their designated representatives, shall determine the adjustments to be made and which excluded officers or employees are to be

granted adjustments under this chapter, in accordance with the following guidelines and limitations:

- (1) For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, such adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis[, except that adjustments in compensation shall be within limits set forth in paragraphs (2) and (3)].
- [(2) For officers and employees covered by chapters 77 and 297, no adjusted compensation shall exceed ninety-five per cent of the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State. To promote the uniform administration of compensation under chapters 77 and 297, the foregoing limitation shall apply uniformly to all officers and employees throughout the State covered by chapters 77 and 297, whether or not the officer or employee is employed by the State or a county government. Any officer or employee, who is receiving a salary in excess of the limitation provided herein on [June 3, 1978], shall continue to receive the salary so long as he remains in the same position or until such time as the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (3) For officers and employees covered by chapter 304, no adjusted compensation shall exceed ninety-five per cent of the compensation paid to the president of the University of Hawaii under section 26-52(2); provided that an officer or employee who is receiving on [June 3, 1978] a salary in excess of ninety-five per cent of the salary paid to the president of the University of Hawaii, shall continue to receive the salary so long as he remains in the same position or until such time as the salary of the president is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (4) (2) No adjustment in compensation, hours, terms, and conditions of employment, or other benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.
- (5)<sup>1</sup> The compensation of officers or employees whose salaries presently are limited or fixed by legislative enactment shall not be adjusted under this chapter, but shall continue to be adjusted by the appointing authority within limits established by law or by legislative enactment.
- (6)<sup>1</sup> The compensation of officers or employees, who are not covered under the same compensation plans as officers and employees within collective bargaining units and whose salaries presently are authorized to be fixed by the appointing authority, need not be adjusted under this chapter. The appointing authority may continue to make specific

adjustments in the salaries of individual officers or employees from available funds appropriated [for such purpose within limits set forth in paragraphs (2) and (3) of this section].”

SECTION 3. Section 78-18, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 77-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Salary ranges SC-1, SC-2, and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2, and SC-3 may be utilized by the State and counties for physicians and psychiatrists positions.
- (2) No position shall be classified and paid in salary ranges SC-1, SC-2, and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, recommended by the administrative director of the courts and approved by the chief justice, or recommended by the personnel director of a county and approved by the respective council and mayor.
- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the State, not more than one position classified and paid in salary ranges SC-1, SC-2, and SC-3 by the judiciary, and not more than eight positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by any county. Psychiatrists and physician positions shall be excluded from the above-mentioned totals.
- [(4) The salary of an employee assigned to SC-1, SC-2, or SC-3 shall not be more than the applicable limits under section 78-18.
- (5) (4) The director of personnel services, the administrative director of the courts, and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2, and SC-3 are being used.”

SECTION 5. On the effective date of this Act, all compensation and salary adjustments for excluded officers and employees affected by the limitations imposed by section 89C-2(2), Hawaii Revised Statutes, prior to the effective date of this Act shall be made retroactive to May 26, 1979.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.<sup>2</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved May 28, 1982.)

#### Notes

1. Paragraphs “5” and “6” were not renumbered.
2. Edited pursuant to HRS §23G-16.5.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The purpose of this Act is to allow “system wide financing” of special purpose revenue bonds issued to assist health care facilities under chapter 39A, Hawaii Revised Statutes.

In system wide financing, health care facilities located in different states which are affiliated or are owned by a common parent corporation combine their revenues to secure a bond issue. Bonds are issued simultaneously by the respective governmental issuers with jurisdiction over all health care facilities in a system requiring financing. The proceeds of each bond issue are segregated and in each case are applied only to finance the project of the health care facility on behalf of which the particular bonds were issued. The security for each bond issue, however, consists of a pledge of the revenues of the entire system. Bond underwriters believe that system wide financing provides enhanced security for the bonds and, therefore, would result in lower interest rates on such bonds.

The present language contained in section 39A-40, Hawaii Revised Statutes, casts doubt on the ability of a Hawaii health care facility to participate in system wide financing. This Act amends that section to allow for system wide financing.

**SECTION 2.** Section 39A-40, Hawaii Revised Statutes, is amended to read as follows:

**“[[§39A-40]] Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other supplemental agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic’s and [materialmen’s] materialman’s liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project, for which [such] the bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the right and privilege may be reserved [in any law authorizing the issuance of special purpose revenue bonds] by the department in the trust indenture securing an issue of special purpose revenue bonds to subsequently issue additional special purpose revenue bonds, subject to legislative authorization of the issue as provided in section 39A-37, or to permit the project party or another party on its behalf to incur debt, from time to time, payable from the revenues derived from such project agreement on a parity with the first issue of the special purpose revenue bonds [thereby authorized] and [the subsequently issued] any subsequent issue of special purpose revenue bonds [,] and other debt issued or incurred in accordance with the provisions of the trust indenture shall be secured equally and ratably with the first issue of the special purpose revenue bond without priority by reason of the date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with this part [and the law authorizing the special purpose revenue bonds].

Notwithstanding any other provisions herein, all or part of the property con-

stituting the project and all interest of the project party in the project and the revenues of the project party therefrom may be subjected to the present and future lien of any mortgage of the project party securing the project party's bonds, and the rights of the department and any trustee for the holders of the special purpose revenue bonds and the holders of the special purpose revenue bonds in the project and the revenues therefrom may be made subject to the prior lien of the project party's mortgage."

SECTION 2.<sup>1</sup> Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3.<sup>1</sup> This Act shall take effect upon its approval.

(Approved May 29, 1982.)

**Note**

1. Sections "2" and "3" should be "3" and "4".

**ACT 154**

H.B. NO. 2550-82

A Bill for an Act Relating to Savings and Loan Associations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 407-61, Hawaii Revised Statutes, is amended to read as follows:

"**§407-61 Rights of members; meetings.** The rights, privileges and powers, and the duties and liabilities of members of an association are fixed by the charter, bylaws, and this chapter. An annual meeting of the members of each association shall be held [in the months of January, February, or March] as fixed in the bylaws of such association[.] unless the meeting is dispensed with upon unanimous written consent of all of the members who would have been entitled to vote upon the action if the meeting were held. Every association shall prepare and deliver to each member upon application, a statement of its financial condition, in the form prescribed or approved by the bank examiner.

**Membership.** All shareholders of record and all borrowers from the association shall be members thereof. Any person, including an adult individual, male or female, single or married, a partnership, association, and corporation, may be a borrower from the association, provided the person has full legal power to contract for the payment of a loan under the laws of this State.

**Voting, proxies, quorum.** Voting may be by proxy, provided the proxy instrument authorizing the proxy to vote has been executed in writing by the member. Any number of members present at a regular or special meeting of members constitutes a quorum. When not inconsistent with law, a majority of all votes cast at any meeting of members shall determine any question. For purposes of any provision of law which requires the vote of each class of stock of a corporation which has more than one class of stock issued and outstanding, borrowing members shall not be deemed to be the holders of a separate class of stock. The members who are entitled to vote at any meeting of the members shall be those owning accounts of record and borrowing members of record at the end of the calendar month next preceding the

date of the meeting of members, except those who have ceased to be members. The number of votes of each member shall be determined pursuant to section 407-31(8).

Fees and fines, restrictions on. The association shall not directly or indirectly charge any membership, admission, repurchase, withdrawal, or any other fee or sum of money, for the privilege of becoming, remaining, or ceasing to be a member of the association, except as provided for by this chapter and excepting reasonable charges upon the making of a loan. This provision shall not prejudice the rights of any association to collect, receive, or charge fees contracted to be paid before May 16, 1941. The association shall not charge any member any sum of money by way of fine or penalty for any cause, except that a reasonable charge may be made against borrowers for defaults or prepayments.

Transfer of real estate security, effect of. A borrowing member obligated upon a real estate loan shall remain a member of the association, even though he has transferred the real estate security subject to the real estate loan, so long as the borrowing member remains obligated upon the real estate loan; provided[,] that the association may, at the request of the borrowing member and the transferee of the real estate security, transfer the membership to any transferee of the real estate security, who is obligated on the real estate loan. No such transfer of the membership, however, shall release the transferor from the obligation of the real estate loan."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 29, 1982.)

## ACT 155

H.B. NO. 2561-82

A Bill for an Act Relating to Management of State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 36-21, Hawaii Revised Statutes, is amended to read as follows:

**"§36-21 Short-term investment of state moneys.** The director of finance may invest any moneys of the State which in the director's judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in his judgment the action will not impede or hamper the necessary financial operations of the State[,] in any bonds or interest-bearing notes or obligations of the State (including state director of finance's warrant notes issued pursuant to chapter 40), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds, or in [bank] federally insured savings accounts, or in time certificates of deposit, or in certificates of deposit open account, or in [bank] repurchase agreements[;] with federally insured banks and savings and loan associations authorized to do business in the State; provided[,] that the investments are due to mature not more than five years from the date of



investment. Income derived therefrom shall be a realization of the general fund.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 29, 1982.)

## ACT 156

H.B. NO. 2684-82

A Bill for an Act Relating to the Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The bonds of the authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from the date thereof, bear interest at such rate or rates, not exceeding [eight] eighteen per cent a year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as the resolution, its trust indenture, or mortgage may provide.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 29, 1982.)

## ACT 157

H.B. NO. 2907-82

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that many elderly and infirm persons are forced into adult family boarding homes or care homes simply because they require personal care services. The institutionalization of these individuals is unnecessary and against their best health and social interest. It is also contrary to the community's interest as institutional living is more expensive than supplying one service that will keep the individual in the individual's own home.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- **Personal care; payment for services.** (a) The department may offer within the funds available personal care services to those individuals who are eligible for medical assistance and whose physical dependency requires them to have intermittent assistance with personal care services where there is no respon-

sible relative or friend willing to volunteer such assistance.

(b) "Personal care services" mean services to assist in the areas of bathing, toileting, personal hygiene, dressing, feeding, and household tasks which are related to a medical need.

(c) Payment for personal care may be made only when the cost is substantially less than the cost for the care of the individual in an alternative plan, if personal care services were not available.

(d) "Substantially less" as the term is used in this section means not more than sixty per cent of the cost of the lowest level of care in an adult family boarding home or a care home."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1982-1983, for the purposes of this section.

SECTION 4. The sum appropriated by this Act shall be expended by the department of social services and housing for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

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

(Approved May 29, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 158

S.B. NO. 2561-82

A Bill for an Act Relating to Horizontal Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-84, Hawaii Revised Statutes, is amended to read as follows:

"[[[514A-84]]] Management contracts; developer. (a) If the developer or any affiliate of the developer acts as the first managing agent for the association of apartment owners following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days' written notice. The identity of the managing agent as the developer or its affiliate shall be disclosed to the association of apartment owners no later than the first meeting of the association. An affiliate of, or person affiliated with, a developer is a person that directly or indirectly controls, is controlled by, or is under common control with, the developer.

(b) A managing agent employed or retained for [a] one or more condominium [project] projects shall provide evidence of a fidelity bond in [the minimum] an amount [of \$25,000.] equal to \$250 multiplied by the aggregate number of units covered by all of the agent's condominium management contracts; provided that the minimum amount of bond required by this subsection shall not be less than \$10,000 nor greater than \$50,000.

(c) If a project chooses not to have a managing agent, a fidelity bond in an

amount equal to \$250 multiplied by the number of units in the project shall be secured for all individuals handling the project's funds [in the minimum amount \$10,000.]; provided that the minimum amount of bond required by this subsection shall not be less than \$10,000 nor greater than \$50,000."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 1, 1982.)

## ACT 159

H.B. NO. 329

A Bill for an Act Relating to Public Officers and Employees Excluded or Exempt from Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 89C, Hawaii Revised Statutes, is amended as follows:

1. Sections 89C-1 and 89C-2 are amended to read:

**“[[§89C-1]] Purpose.** The legislature finds that existing statutes do not permit the chief executives of the State and counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice of the supreme court sufficient flexibility to make appropriate and timely adjustments in the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining coverage under chapter 89. To this end, the legislature grants to the respective chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, the authority to make such adjustments for officers and employees excluded from collective bargaining in conformance with this chapter.

Nothing in this chapter shall be construed to interfere with or diminish any authority already provided by statutes to the chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice.

**“[[§89C-2]] Adjustments authorized; limitations, restrictions.** Any provision of law to the contrary notwithstanding, the compensation, hours, terms, and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice, as applicable. The chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, or their designated representatives, shall determine the adjustments to be made and which excluded officers or employees are to be granted adjustments under this chapter, in accordance with the following guidelines and limitations:

- (1) For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, such adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis, except that adjustments in compensation shall be within limits set forth in paragraphs (2) and (3).
- (2) For officers and employees covered by chapters 77 and 297, no adjusted compensation shall exceed ninety-five per cent of the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State. To promote the uniform administration of compensation under chapters 77 and 297, the foregoing limitation shall apply uniformly to all officers and employees throughout the State covered<sup>1</sup> or employee is employed by the State or a county government. Any officer or employee, who is receiving a salary in excess of the limitation provided herein on [[ ]June 3, 1978[ ]], shall continue to receive the salary so long as he remains in the same position or until such time as the maximum compensation allowable under section 26-53 for the first deputy or first assistant to the head of a department of the State is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (3) For officers and employees covered by chapter 304, no adjusted compensation shall exceed ninety-five per cent of the compensation paid to the president of the University of Hawaii under section 26-52(2); provided that an officer or employee, who is receiving on [[ ]June 3, 1978[ ]] a salary in excess of ninety-five per cent of the salary paid to the president of the University of Hawaii, shall continue to receive the salary so long as he remains in the same position or until such time as the salary of the president is sufficiently increased to authorize adjustments to the officer's or employee's salary.
- (4) No adjustment in compensation, hours, terms, and conditions of employment, or other benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.
- (5) The compensation of officers or employees whose salaries presently are limited or fixed by legislative enactment shall not be adjusted under this chapter, but shall continue to be adjusted by the appointing authority within limits established by law or by legislative enactment.
- (6) The compensation of officers or employees, who are not covered under the same compensation plans as officers and employees within collective bargaining units and whose salaries presently are authorized to be fixed by the appointing authority, need not be adjusted under this chapter. The appointing authority may continue to make specific adjustments in the salaries of individual officers or employees from available funds appropriated for such purpose within limits set forth in paragraphs (2) and (3) of this section."

2. Section 89C-4 is amended to read:

**“~~[[[§89C-4]]]~~ Adjustments for other officers and employees.** (a) The respective representatives of the State, counties, and the judiciary shall submit to their respective chief executives and to the chief justice, recommendations on the adjustments to be made under this chapter for other officers and employees within their respective personnel systems. The conference of personnel directors shall confer prior to the submittal of any recommended adjustment by each director to his chief executive or by the administrative director of the courts to the chief justice. Such adjustments and their effective dates shall be uniform, if practicable, among the jurisdictions.

(b) The superintendent of education and the president of the University of Hawaii shall submit to the board of education and the board of regents, respectively, recommendations on the adjustments to be made under this chapter for officers and employees within their respective personnel systems. The superintendent and the president shall confer with the state director of personnel services prior to the submittal of any recommended adjustment. Any adjustments adopted by the board of education or the board of regents which presently require the approval of the governor shall remain subject to the approval of the governor.

(c) The auditor, the director of the legislative reference bureau, and the ombudsman shall decide by majority vote on the adjustments to be made under this chapter for officers and employees within their respective offices, including employees of the state ethics commission which is administratively within the office of the auditor. The auditor, the director of the legislative reference bureau, and the ombudsman shall confer with the state director of personnel services prior to voting on any adjustment. Such adjustments and their effective dates shall be uniform for employees under sections 23-8, 23G-2, 84-35, and 96-3.”

3. Section 89C-5 is amended by amending subsection (c) to read:

“(c) The chief executives of the State or counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice, shall not make any adjustments nor use funds for purposes of this chapter without the prior approval of the appropriate legislative bodies as required in this section.”

SECTION 2. The substance of the amendments of this Act shall control regardless of any other act enacted during this regular session.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1982.)

**Note**

1. The words “by chapters 77 and 297, whether or not the officer” are missing at this point.

and Bylaws of Condominium Associations Under the Horizontal Property Act.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-11, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-11 Recordation and contents of declaration.** The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation of a master deed or lease and the declaration may be made. Provisions shall be made for the recordation of instruments affecting the individual apartments on subsequent resales, mortgages, and other encumbrances, as is done with all other real estate recordations; provided that land court certificates of title shall not be issued for apartments. The declaration to which section 514A-20 refers shall express the following particulars:

- (1) Description of the land, whether leased or in fee simple, on which the building or buildings and improvements are or are to be located.
- (2) Description of the building or buildings, stating the number of stories and basements, the number of apartments, and the principal materials of which it or they is or are constructed or to be constructed.
- (3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common element to which it has access, designated parking stall, if considered a limited common element, and any other data necessary for its proper identification.
- (4) Description of the common elements.
- (5) Description of the limited common elements, if any, stating to which apartments their use is reserved.
- (6) The percentage of undivided interest in the common elements appertaining to each apartment and its owner for all purposes, including voting.
- (7) Statement of the purposes for which the building or buildings and each of the apartments are intended and restricted as to use.
- (8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of the person which shall be within the county or city and county in which the property is located.
- (9) Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, or restore the property in the event of damage or destruction of all or part of the property.
- (10) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
- (11) The method by which the declaration may be amended, consistent with this chapter[.], provided that an amendment to the declaration shall require a vote or written consent of not less than seventy-five per cent of all apartment owners.
- (12) Description as to any additions, deletions, modifications, and reservations as to the property.

- (13) In the case of a project which includes one or more existing structures being converted to condominium status, a statement that the project is in compliance with all ordinances, codes, rules, regulations, or other requirements in force at the time of its construction.
- (14) In the case a project which includes one or more existing structures being converted to condominium status, statement of whether any variance has been granted from any ordinance, code, rule, regulation, or other requirement in force at the time of its construction or from any current ordinance, code, rule, regulation, or other requirement."

SECTION 2. Section 514A-81, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§514A-81**~~]]~~ **Bylaws.** The operation of the property shall be governed by bylaws, a true copy of which shall be [annexed to the declaration and made a part thereof.] recorded in the same manner as the declaration. No [modification of or] amendment to the bylaws is valid unless [set forth in an amendment to the declaration, which] the amendment is duly recorded."

SECTION 3. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

"**§514-82 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and amending administrative rules and regula-

- tions governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
  - (11) [Seventy-five per cent of the apartment owners may at any time modify or amend the bylaws,] The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
  - (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
  - (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
  - (14) A director shall not vote or cast any proxy vote at any board meeting on any issue in which he has a conflict of interest.
  - (15) No resident manager of the condominium shall serve on the board of directors.
  - (16) The board of directors shall meet at least once a year.
  - (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to [such] the meeting, and shall contain at least: the date [and], time [of such meeting, the], and place of [such] the meeting, the items on the agenda for [such] the meeting, and a standard proxy form authorized by the association, if any.
  - (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only and may designate any person as proxy and may be limited as the apartment owner desires and indicates.
  - (19) The resident manager or managing agent[,] or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
  - (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.



- (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- (22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- (23) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to [such] the meeting.
- (24) That the minutes of meetings of the board of directors[,] and association of apartment owners and the association's financial statements shall be available for examination by apartment owners at convenient hours at a place designated by the board and shall be mailed to any owner upon the owner's request."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1982.)

ACT 161

H.B. NO. 2155-82

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and others for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

Section 37-77, Hawaii Revised Statutes.

	Division	Amount
REFUND OF TAXES:		
Tanaka, Yoshino and Annette R. (Real Property)	First	\$ 699.12
Kamau, Samuel H. (Real Property)	Third	82.63
Cobb-Adams, Geraldine (Real Property)	First	388.95
Zimring, Maurice and Molly (Real Property)	Third	1,475.76

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	<b>Warrant No.</b>	<b>Amount</b>
<b>OUTLAWED WARRANTS:</b>		
Kaaihue, Jr.	S-191311	\$ 8.78
Kaaihue, Lorraine	P-330416	30.61
<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENT OF CLAIMS:</b>		
		<b>Amount</b>
Kimoto, Raymond A. Civil No. 4131, Third Circuit Date of Judgment: 9/30/81 Amount of Judgment: 4% interest:	\$ 30,962.87 1,036.64	31,999.51
Watada, Robert Y. and Carolyn M. Civil No. 57878, First Circuit Date of Judgment: 8/6/81 Amount of Judgment: 4% interest:	8,000.00 315.92	8,315.92
Campbell, Rex and Faye Supreme Court No. 6630 Date of Judgment: 8/26/81 Amount of Judgment: 4% interest:	2,197.35 80.16	2,277.51
Smith, Robert C., individually and as Personal Representative of the Estate of Stephen Jeffrey Smith, Deceased and Leslie E. Smith Civil No. 4266, Second Circuit Date of Judgment: 11/4/81 Amount of Judgment: 4% interest:	100,000.00 2,959.00	102,959.00
Kawaguchi, Isamu and Lynn Miyoko Civil No. 2576, Fifth Circuit Date of Judgment: 12/15/81 Amount of Judgment: 4% interest:	47,500.00 1,192.44	48,692.44
Webb, Gertrude Civil No. 6449, Third Circuit Date of Judgment: 12/17/81 Amount of Judgment: 4% interest:	3,500.00 88.14	3,588.14
Hawaiian Airlines, Inc. Civil No. 62257, First Circuit Date of Judgment: 1/11/82		

Amount of Judgment:	\$ 74,035.02	
10% interest:	4,077.00	\$ 78,112.02
Aloha Airlines, Inc.		
Civil No. 63863, First Circuit		
Date of Judgment: 2/3/82		
Amount of Judgment:	153,216.01	
10% interest:	7,889.58	161,105.59
Guillermo, Jo Ann, a minor by her natural guardian, Paul Guillermo		
Civil No. 58936, First Circuit		
Date of Dismissal: 3/2/82		
Amount of Settlement:	12,500.00	
4% interest:	206.68	12,706.68
Nettere, Eric		
Civil No. 4628, Second Circuit		
Date of Dismissal: 3/4/82		
Amount of Settlement:	50,000.00	
4% interest:	1,589.50	51,589.50
Wilcox, Arleen, aka Jacobson, Arleen and Wilcox, Sherill		
Civil No. 59378, First Circuit		
Date of Judgment: 3/17/82		
Amount of Judgment	17,500.00	
4% interest:	260.61	17,760.61
Thomas, Dolores and Thomas, Ernest		
Supreme Court No. 8600		
Date of Judgment: 11/10/81		
Amount of Judgment:	110,000.00	
4% interest:	3,288.00	113,288.29
Hoopai, Bernard, a minor by Leina Hoopai, his Guardian Ad Litem		
Supreme Court No. 8507		
Date of Judgment: 6/30/81		
Amount of Judgment	50,000.00	
4% interest:	2,168.10	52,168.10
DeMello, Rose M.		
Civil No. 59470, First Circuit		
Date of Judgment: 4/1/82		
Amount of Judgment:	8,500.00	
4% interest:	112.62	8,612.62

## MISCELLANEOUS CLAIMS:

Amount

Carter, Bette S.

Reimbursement for damage to personal property in restraining

two boys from fighting at Kawanakoa Intermediate School, 9/15/80	\$50.00
Gabriel, Lavern P. Reimbursement for destruction of car radio antenna by resident at Waimano Training School and Hospital, 8/26/80	24.86
Wunsch, Anthony Reimbursement for repair of personal camera damaged during performance of duty at Waimano Training School and Hospital, 5/15/81	78.00

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate of four per cent a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State as of the close of business on June 30, 1983.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1982.)

ACT 162

H.B. NO. 2192-82

A Bill for an Act Relating to Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 416-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The director of regulatory agencies shall at any time not more than fifteen years before the expiration of any articles of association or charter of any corporation extend the duration of the same, and shall at any time not more than five years after the expiration of any articles of association or charter renew the same in each case for such period of extension or renewal as is agreed upon, which may be perpetual, and in each case on application to him for that purpose, upon the filing in his office of a verified certificate signed by any two authorized officers of the corporation[,] who are not the same person, showing that the proposed extension or renewal has been approved by the vote of the holders of not less than three-fourths of all its issued and outstanding shares of stock, voting without regard to class, at a

meeting duly called and held for the purpose, or, in the case of a nonstock corporation, by the vote of not less than three-fourths of the members present at a duly called meeting thereof; provided, that no extension of the charter of a nonprofit corporation shall become effective until the same is allowed by the director.

All extensions or renewals of articles of association and charters granted before April 1, 1939, are ratified and confirmed."

SECTION 2. Section 416-23, Hawaii Revised Statutes, is amended to read:

"**§416-23 Amendments of charters and articles.** Subject to the provisions set forth in this section, the articles of association or charter of any corporation may be amended by the vote of the holders of not less than two-thirds of all of its stock issued and outstanding and having voting power, or by such larger vote as may be required by the articles of association or charter, at a meeting duly called and held for the purpose, or, in the case of a nonstock corporation, by the vote of not less than two-thirds of the members present at a meeting duly called and held for the purpose. No amendment shall be effective unless there is filed in the office of the director of regulatory agencies a verified certificate, signed by any two authorized officers of the corporation[,] who are not the same person, setting forth the amendment by stating that the articles of association or charter has been amended to read as set forth in the certificate in full or by stating that any provision of the articles of association or charter, which shall be identified by the numerical or other designation thereof in the articles of association or charter or by stating the wording thereof, has been amended to read as set forth in the certificate, and certifying that the amendment was adopted by the required vote as aforesaid at a meeting duly called and held for the purpose. Any amendment so adopted shall become effective and the articles of association or charter shall be amended on the date of filing of the certificate of amendment or on such later date as specified in the certificate of amendment. Any provision of this section to the apparent contrary notwithstanding, (1) no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in an original charter or articles of association; (2) no amendment changing the name of the corporation shall become effective until the director has determined that the amendment is not in conflict with section 416-12; (3) no amendment to the charter of a nonprofit corporation shall become effective until the same is allowed by the director; and (4) if an amendment would make any change which would adversely affect the rights of the holders of shares of any class, then the holders of each class of shares so affected by the amendment shall be entitled to vote as a class upon the amendment, regardless of other limitations or restrictions on the voting power of the class, and in addition to the vote otherwise required, a vote of the holders of two-thirds of each class so affected by the amendment shall be necessary to the adoption thereof. There may be filed in the office of the director at any time a copy, verified by any two officers of the corporation who are not the same person by authority of its board of directors, of the articles of association or charter of the corporation restated to include all amendments to and including the date of the verification and upon filing the restated articles of association or charter shall be and become the articles of association or charter of the corporation."

SECTION 3. Section 416-64, Hawaii Revised Statutes, is amended to read:

**“§416-64 Increase of capital, authorization; certificate to be filed with director.** No increase or extension of the capital stock of any corporation organized under the laws of the State, having authority under its articles of association or charter to increase its capital stock, shall be legal and effective unless the increase or extension has been authorized by a vote of not less than two-thirds of all of the shares of stock issued and outstanding and having voting power, at any meeting duly called and held for the purpose; and unless a verified certificate has first been filed with the director of regulatory agencies, signed by any two authorized officers of the corporation[,], who are not the same person, showing that the meeting had been properly called and held; that the increase or extension had been authorized by the required vote; and showing also (1) the present authorized capital stock of the corporation; (2) the amount to which the capital stock thereof may be increased or extended under its articles of association or charter; (3) the amount of increase or extension of the capital stock duly authorized by its stockholders; and (4) in the case of stock having a par value, that not less than ten per cent of the total authorized stock as increased has been paid in, in cash or property, or that the corporation holds cash or property of a value equal to ten per cent of the total authorized stock as increased. The certificate shall be accompanied by payment of the fee required to be paid upon the amount of increase so authorized. The director shall not receive or file the certificate without the payment. The increase of capital shall become effective and the capital of the corporation shall be and become increased on the date of filing of the certificate prescribed by this section or on such later date as shall be specified in the certificate.”

SECTION 4. Section 416-65, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) Certificates. A verified certificate shall be signed by any two authorized officers of the corporation who are not the same person and shall be presented to the director setting forth therein facts showing that the required vote or other determination pursuant to this section of the proposed reduction of capital or capital stock has been obtained or made, and certifying that no distribution of assets representing the surplus created by the reduction will be made at any time unless the remaining assets of the corporation then equal in value the total par value of the remaining capital stock of the corporation, and unless the remaining assets of the corporation then equal in value twice the amount of indebtedness of the corporation and, in the case of a reduction of capital or capital stock by release or cancellation of subscriptions to stock, certifying that the remaining assets of the corporation, upon the reduction, will equal in value the total par value of the remaining capital stock of the corporation and will then equal in value twice the amount of the indebtedness of the corporation.”

SECTION 5. Chapter 416, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“§416- Rules.** The director of regulatory agencies may make, amend, or repeal rules pursuant to chapter 91, to implement the provisions of this chapter.”

SECTION 6. Section 418-11, Hawaii Revised Statutes, is amended to read:

**“§418-11 Annual exhibit.** (a) Every corporation qualified under section 418-1 shall file by [March 31] June 30 of each year, with the director of regulatory agen-

cies an exhibit of its state of affairs as of December 31 of the preceding year together with a remittance of \$10 to cover the filing fee. [Such] The exhibit shall contain [such] information as the director shall prescribe.

(b) Every corporation qualifying under section 418-2 shall file by [March 31] June 30 of each year, with the director of regulatory agencies an exhibit of its state of affairs as of December 31 of the preceding year together with a remittance of \$1 to cover the filing fee. [Such] The exhibit shall contain [such] information as the director shall prescribe.”

SECTION 7. Chapter 418, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“§418- Rules. The director of regulatory agencies may make, amend, or repeal rules pursuant to chapter 91, to implement the provisions of this chapter.”

SECTION 8. Chapter 417, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§417- Merger of subsidiary corporations. (a) Any corporation organized or existing under the laws of this State or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit a merger, owning at least ninety per cent of the outstanding shares of each class of the stock of each of two or more other corporations organized or existing under the laws of this State, or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit such a merger, may file in the office of the director of regulatory agencies a certificate of such ownership and of merger of the subsidiary corporations in its name and under its corporate seal and in the name of the surviving subsidiary corporation and under its corporate seal. The certificate shall be signed by any two authorized officers of each of the parent corporation and the surviving subsidiary corporation and shall set forth a copy of the resolutions of each of the board of directors of the parent corporation and the board of directors of the surviving subsidiary corporation to merge one or more of the subsidiary corporations into the other and surviving subsidiary corporation and to cause the surviving subsidiary corporation to assume all of the other subsidiary corporation’s or corporations’ obligations and the date of the adoption thereof; provided that if the parent corporation does not own all the outstanding stock of the subsidiary corporation parties to a merger as aforesaid, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including, if such is the case, the securities, cash, or other consideration into which shares of stock of the subsidiary corporation or corporations not owned by the parent corporation are to be converted.

(b) Upon the minute, hour, and day of filing of the certificate of ownership and merger pursuant to this section, or if a subsequent minute, hour, and day has been specified in the certificate there upon such subsequent minute, hour, and day, the separate existence of the nonsurviving subsidiary corporation or corporations shall cease and all and singular the rights, privileges, franchises, and property of the nonsurviving subsidiary corporation or corporations and all debts and liabilities due or to become due to the nonsurviving subsidiary corporation or corporations, including subscriptions for shares and things in action and every interest or asset of

conceivable value or benefit, shall be deemed fully and finally and without any right of reversion transferred to and vested in the surviving subsidiary corporation without further act or deed. The surviving subsidiary corporation shall have and hold the same in its own right as fully as the same was possessed and held by the non-surviving subsidiary corporation or corporations from which by operation of this part, it was transferred; and except as and to the extent otherwise provided in section 417-43 each share of stock of the subsidiary corporation or corporations not theretofore owned by the parent corporation and to be converted in the merger, if any, shall be deemed converted into the securities, cash, or other consideration provided in the certificate of ownership and merger.

(c) All debts, liabilities, and obligations due or to become due of, and all claims or demands for any cause existing against, the nonsurviving subsidiary corporation or corporations shall upon the merger be and become the debts, liabilities, and obligations of and the claims and demands against the surviving subsidiary corporation in the same manner as if the surviving subsidiary corporation had itself incurred or otherwise become liable for them. All rights of creditors and all liens upon the property of each of the subsidiary corporations shall be preserved unimpaired, limited in lien to the property affected by the liens immediately prior to the time of the merger. Any action or proceedings pending by or against any subsidiary corporation or corporations shall not be deemed to have abated or been discontinued but may be prosecuted to judgment with the right to appeal or review as in other cases as if the merger or consolidation had not taken place or the surviving subsidiary corporation may be substituted for the nonsurviving subsidiary corporation.”

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 9.<sup>2</sup> This Act shall take effect upon its approval.

(Approved June 1, 1982.)

**Notes**

1. Edited pursuant to HRS §23G-16.5.

2. Section “9” should be “10”.

**ACT 163**

**H.B. NO. 2220-82**

**A Bill for an Act Relating to Regulation of Employment Agencies.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to further the goals of consumer protection by strengthening the regulation and professionalization of commercial employment agencies.

SECTION 2. Section 373-5, Hawaii Revised Statutes, is amended to read as follows:

“§373-5 **Application for license.** Every individual, agent, partnership, corporation, or association seeking a license to operate an employment agency shall file a written application with the director which shall contain such information and



shall be in such form as the director may prescribe; provided that in addition to complying with all other requirements of this chapter, no license shall be issued unless the applicant has passed a certified employment consultant examination as designated by the director[;]. Such examination shall cover the following requirements:

- (1) Interview principles and techniques;
- (2) Job descriptions and specifications;
- (3) Placement procedure (recruitment, solicitation, referral);
- (4) Aids for applicants;
- (5) Agency management;
- (6) General principles of business law; and
- (7) State statutes including rules and regulations relating to employment agency.

[and provided further that this] This section shall not apply to persons holding valid licenses on [[June 3, 1978]] the effective date of this Act."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1982.)

## ACT 164

H.B. NO. 2540-82

A Bill for an Act Relating to the Authorization of Special Purpose Revenue Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in the amount of \$20,000,000 to assist the Queen's Medical Center, a not-for-profit corporation that provides health care facilities to the general public in the financing or refinancing of its health care facility.

SECTION 3. The proposed health care facility has received certificate of need approval by the state health planning and development agency.

SECTION 4. The State shall not have a legal or moral obligation to pay debt service in the issued special purpose revenue bonds. The debt limitation imposed on the State's general borrowing ability or the State's credit rating shall not be affected by the issuance of the special purpose revenue bonds.

SECTION 5. The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care to the general public.

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

(Approved June 1, 1982.)

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-21, Hawaii Revised Statutes, is amended by:

1. Amending the definition of "elective officers, elective officials" to read as follows:

"Elective officers, elective officials": [elected officers of the State or any county including legislators and county councilmen.] any person elected to a public office, except as a delegate to a constitutional convention, member of the board of education or trustee of the office of Hawaiian affairs, in accordance with an election duly held in the State or counties under chapter II; provided that the person receives compensation, pay, or salary for such office."

2. Deleting the definition "medical review board".

3. Amending the definition of "retirement allowance" to read as follows:

"Retirement allowance": the benefit payable for life [to which a member is entitled upon his retirement.] as originally computed and paid a member at the point of his retirement in accordance with the mode of retirement selected by him, exclusive of any bonus or bonuses."

4. Adding a new definition to be appropriately inserted and to read as follows:

"Sewer worker": an employee of any county who is employed in any of the following classifications: (1) sewer maintenance helper, (2) sewer maintenance repairer, (3) sewer maintenance supervisor I and II, (4) gas detector, (5) gas detector helper, (6) gas detector supervisor, (7) cesspool worker, (8) cesspool pumping equipment operator I; (9) cesspool equipment operator II; (10) cesspool pumping supervisor, or in any combination of these classifications."

SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended by:

1. Amending section 88-23 to read as follows:

"§88-23 General administration of system vested in board. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this part are vested in a board of trustees; subject, however, to the area of administrative control vested in the department of budget and finance by [section] sections 26-8[,] and 26-35."

2. Amending section 88-24 to read as follows:

"§88-24 Composition of board. The board of trustees shall consist of seven members as follows:

- (1) The director of finance of the State, ex officio;
- (2) Three members of the system, two of whom shall be general employees and one of whom shall be a teacher, to be elected by the members of the system under the rules and regulations adopted by the board governing the election to serve for terms of six years each, one of the terms to expire on January 1 of each even-numbered year;
- (3) Three citizens of the State who are not employees, one of whom shall be a responsible officer of a bank authorized to do business within the State, or a person of similar experience, to be appointed by the governor with

the advice and consent of the senate to serve for a term of six years each, one of the terms to expire January 1 of each odd-numbered year.

Each trustee shall serve until his successor is elected or appointed, as the case may be, and qualified. For the purposes of this section, the term "general employees" includes police officers and firefighters."

3. Repealing section 88-32.

4. Amending section 88-45 to read as follows:

"**§88-45 Employee contributions.** After June 30, 1965, the normal contribution by each member to the annuity savings fund shall be six per cent of his compensation, provided that after June 30, 1967, all [firemen] firefighters and [policemen] police officer shall contribute ten and four-tenths per cent of their compensation; and provided that after [the actual transfer of all county jails pursuant to executive order of the governor,] June 30, 1977, all corrections officers shall contribute ten and four-tenths per cent of their compensation.

In addition to the foregoing, all members including [firemen] firefighters, [policemen] police officers, and corrections officers, shall contribute one and eight-tenths per cent of compensation to the post retirement fund."

5. Amending section 88-51 to read as follows:

"**§88-51 Membership service generally.** Membership service includes:

- (1) Service by an employee rendered since becoming a member;
- (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by [said] the government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time he renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived his right to any credit under the Civil Service Retirement Act (5 USCA 2251) based upon such service; provided[,] further[,] that credit for such service shall not exceed eight years;
- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
- (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of his employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees;
- (8) Service, not exceeding four years, in the military service of the United

States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to his induction into the military and who subsequently followed his discharge;

- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital, Puunene Hospital, Waimea Hospital, Waimea, Kauai, Haliimaile Dispensary, and Paia Hospital and Pioneer Mill Hospital;
- (10) Service rendered prior to becoming a member as a full-time sheriff or deputy sheriff in the office of the sheriff[.];
- (11) The period of time when a member was absent from work because of injuries incurred within the scope of his employment and who has received workers' compensation benefits prior to July 1, 1967;
- (12) Service rendered as an employee of the legislature during any legislative session;
- (13) Service as a school cafeteria manager or worker if paid by the State regardless of the source of funds from which paid; provided that twelve months' service shall be credited for the time such a person was working on a nine-month schedule during a school year.

Membership service shall only be credited for any period for which the member makes the required contributions to the system."

6. Repealing section 88-51.5.

7. Amending section 88-54 to read as follows:

**"§88-54 Service while legislative employee.** Any member who takes a leave of absence to be employed by the legislature during any legislative session shall be entitled to all benefits and required to make all employee contributions under the system for the period during which such employee worked for the legislature[.]; provided that the contributions shall be made on the same basis as would have been required had the employee not been on leave of absence.

[Any employee who, prior to his becoming a member, was employed as an employee of the legislature during any legislative session shall be entitled to membership service for the period of such employment by applying and paying therefor as required by section 88-59 for the acquisition of membership service.]"

8. Amending section 88-55 to read as follows:

**"§88-55 Services of field civilian personnel of the Hawaii national guard.** Civilian field personnel of the Hawaii national guard are entitled to membership credit for all service performed by them in such capacity since August 1, 1946, upon making application therefor and complying with section 88-59, provided that by federal law or regulation a payroll deduction has been made for the contribution required to be made into the system by the employee.

Any of the foregoing to the contrary notwithstanding, any civilian field personnel of the Hawaii national guard who elected to become, and who became, a member of the federal retirement system after December 31, 1968 shall not be entitled to membership credit for the period of time the individual was a member of the federal retirement system, nor shall the individual be entitled to any previous membership service credit for any period of service between August 1, 1946 and December 31, 1968 if the individual is entitled to a benefit under the federal retirement system for such period of service."

9. Repealing section 88-56.

10. Adding a new section to be appropriately designated and to read as follows:

**“§88- Membership of employees holding more than one position, appointment or office.** The membership of any employee holding more than one full-time position, appointment, office, or any combination thereof shall be limited to the position, appointment, or office of the employee’s option; provided that the employment in the position, appointment, or office shall meet the minimum membership eligibility requirements as provided in this part. Any contributions made based on the compensation, pay, or salary of the employee’s position, appointment, or office other than that on which the employee’s membership is based shall be returned to the employee.

The foregoing shall not apply to any employee holding two part-time positions of the same class if each position meets the minimum eligibility requirements for membership and the sum total of the compensation, pay, or salary received for both positions does not exceed the higher of the full-time compensation, pay, or salary for either position.”

11. Amending section 88-58 to read as follows:

**“§88-58 Prior service credit while per diem employee.** [Employees in per diem positions, employees who formerly filled per diem positions, and former employees who] Under such rules as are adopted by board of trustees, all members who formerly filled per diem positions after December 31, 1927[,] in the various counties as road maintenance workers, shall be allowed full prior service credit in the system for their per diem service.”

12. Amending section 88-59 to read as follows:

**“§88-59 Acquisition of credit for previous service.** Under such rules and regulations as the board of trustees may adopt, any member may file with the board a statement of all service as an employee or other service paid for by the State or a county rendered prior to his last becoming a member which is not otherwise credited to him, for which he claims prior service credit, and also a statement of such services for which he claims membership service credit and for which he agrees to have additional deductions made from his compensation or to make a lump sum payment as hereinafter described.

After the filing of the statement, the board shall verify the service therein claimed and determine the service credit allowable therefor. Verified prior service shall be credited forthwith. Verified membership service shall be paid for by the member in any one of the following methods, at his option:

- (1) By deductions from his compensation of twice the contribution rate provided for in section 88-45 over a period equal to the period for which membership service credit is allowable; or
- (2) By deductions from his compensation of one and one-half times the contribution rate provided for in section 88-45 over a period equal to twice the period for which membership service credit is allowable; or
- (3) By lump sum payment of contributions computed at the contribution rate provided for in section 88-45 applied to his monthly rate of compensation at the time of payment multiplied by the number of months for which membership service credit is allowable[.]; provided that after the

effective date of this Act, this method shall not be available to any new member with less than five years of membership service exclusive of any previous service acquired under the provisions of paragraphs (1) and (2).

The deductions from compensation or lump sum payment shall be paid to the system and shall be credited to the member's individual account and become part of his accumulated contributions.

Membership service credit in addition to any other service credited to the member shall be allowed the member for the period for which the deductions from compensation or lump sum payment have been made as hereinabove described.

No post retirement contributions shall be required for any service being claimed which is prior to July 1, 1961.

Any member of the legislature who reenrolls as an active member in accordance with section 88-62 and who desires to obtain membership service for a period of service as a member of the legislature during which he received a retirement allowance shall, in addition to complying with the provisions of this section, refund while a reenrolled active member the retirement allowance received during the period of a legislative service."

13. Amending section 88-62 to read as follows:

"§88-62 Return to service of a former member. (a) If a former member who has less than five years of credited service and who has been out of service for a period of four full calendar years or more after the year in which he left service, or if a former member who withdrew his accumulated contributions returns to service, he shall become a member in the same manner and under the same conditions as anyone first entering service; however, he may obtain membership service credit for his former credited service as provided in section 88-59. If such member did not withdraw his accumulated contributions prior to his return to service, such contributions shall be returned to him as part of the process of enrolling him in the system.

In order to be eligible for any benefit, he must fulfill the membership service requirements for such benefit through membership service after again becoming a member in addition to meeting any other eligibility requirement established for such benefit[.]; provided that the membership service requirement shall be exclusive of any former service acquired in accordance with section 88-59 or any other section in this part.

(b) If a former member who did not withdraw his accumulated contributions returns to service within four full calendar years after the year in which he left service, he shall again become a member in the same manner and under the same conditions as anyone first entering service, except that he shall be credited with service credit for the service he had when he terminated employment and his new and previous accumulated contributions shall be combined.

(c) If a former member with five or more years of credited service who did not withdraw his contributions returns to service, his status shall be in accordance with the provisions described in section 88-97."

14. Amending section 88-74 to read as follows:

"§88-74 Allowance on service retirement. Upon retirement for service, a member shall receive a retirement allowance as follows:

(1) If the member has attained the age of fifty-five, a retirement allowance of

one-fiftieth of the average final compensation of the member multiplied by the total number of years of his credited service; provided[,] that after June 30, 1968, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a firefighter or a police officer; and provided that after June 30, 1977 [following the date of actual transfer of the county jails by executive order of the governor], if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a corrections officer, then for each year of service as a firefighter, a police officer, or a corrections officer, the retirement allowance shall be two and one-half per cent of his average final compensation; provided further[,] that the maximum retirement allowance for such a member shall not exceed eighty per cent of his average final compensation. If the member has not attained the age of fifty-five, his retirement allowance shall be computed as though he had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; provided that no such reduction shall be made if the member has at least twenty-five years of credited service [of which the last five or more years prior to retirement is credited service] as a firefighter, police officer [or], corrections officer[.], or sewer worker of which the last five or more years prior to retirement is credited service in such capacities. [No such reduction shall be made if the member has at least twenty-five years of credited service of which the last five or more years prior to retirement is credited service in any of the following classifications: (A) sewer maintenance helper, (B) sewer maintenance repairer, (C) sewer maintenance supervisor I and II, (D) gas detector, (E) gas detector helper, (F) gas detector supervisor, (G) cesspool worker, (H) cesspool pumping equipment operator I, (I) cesspool pumping equipment operator II, and (J) cesspool pumping supervisor, or in any combination of these classifications.]

- (2) If the member has made voluntary additional contributions for the purchase of an additional annuity and has not applied for the refund thereof as permitted by section 88-72, he may accept such refund at time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in paragraph (1) [hereof], an annuity which is the actuarial equivalent of such additional contributions with regular interest.
- (3) If the member has credited service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, his retirement allowance shall be computed on the following basis:
  - (A) Irrespective of age, for each year of credited service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, three and one-half per cent of his average final compensation in addition to an annuity which is the actuarial equivalent of his accumulated contributions allocable to the period of such service; and
  - (B) For all other credited service as provided in [subsections] paragraphs (1) and (2) [hereof]. No allowance shall exceed seventy-five

per cent of the average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in subparagraph (A) [of this subsection] and the portion of the accumulated contributions specified in [the same subsection] that subparagraph as may be in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of average final compensation.”

15. Amending sections 88-96 and 88-97 to read as follows:

**“§88-96 Rights of members separated from service.** (a) Any member who ceases to be an employee and who has less than five years of credited service shall, upon [completion of such forms as are prescribed by] application to the board of trustees, be paid all his accumulated contributions and his membership shall thereupon terminate, provided that interest shall not be credited to an individual's account nor shall his membership continue after the fourth full year following the calendar year in which his employment terminates[,] after which time the system, as soon thereafter as possible, shall return the member's contributions.

(b) [Subsection (a) of this section notwithstanding, any] Any member having five or more years of credited service who ceases to be an employee [may establish a vested benefit status by completing within four calendar years following the calendar year in which his employment terminates, such forms as are prescribed by the board for this purpose.] shall, upon application to the board of trustees, be paid all of the member's contributions. If the contributions are not withdrawn by the member within four calendar years following the calendar year in which his employment terminates, the member shall be deemed to have established vested benefit status and shall be eligible for the service retirement benefit in effect at the time of the member's separation from service, payable in accordance with the provisions thereto and the contributions shall not be withdrawn by the member thereafter.

[(c) Any member who establishes a vested benefit status shall be eligible for the service retirement benefit in effect at the time of his separation from service, payable in accordance with the provisions relating thereto.

(d) (c) In case of the death of any former member after the termination of service, his accumulated contributions shall be payable to his estate or to such person as he has nominated by written designation duly executed and filed with the board.

[e] (d) After July 1, 1961, there shall be included in any payment of accumulated contributions made pursuant to this section, the sums contributed by the member to the post retirement fund.

**“§88-97 Return to service of a member who has vested benefit status.** If a former member who has [established] a vested benefit status as provided in section 88-96(b) returns to service before his retirement, he shall again become a member and shall contribute for membership service as provided by the law in effect during his [second] reenrolled period of membership. [In order to become eligible for any benefit in addition to his vested benefit, he must fulfill the membership service requirements for such benefit through membership service after again becoming a member in addition to meeting any other eligibility requirements established for



such benefit. The] Upon retirement, if the member has less than five years of credited service during the member's reenrollment period of membership, the benefit to which he has a vested right shall not be changed but whatever benefit accrued from his [second] reenrollment period of membership shall be added to his vested benefit to comprise his retirement allowance. If he again leaves service before retiring and does not withdraw his [accumulated] contributions, his vested benefit shall consist of the combined retirement allowance.

However, if the member, upon retirement has five or more years of credited service during the member's reenrolled period of membership, the member's benefit shall be the greater of the allowance computed in the manner described in the preceding paragraph or the benefit computed with the member's combined service included under the formula in effect at the time of retirement. If the member again leaves service before retiring and does not withdraw his contributions, the member's vested benefit shall be the greater of the benefits as calculated in this paragraph."

SECTION 3. The Hawaii Revised Statutes is amended by adding a new section to chapter 88 to read:

**"§88-119.5 Investment guidelines.** Notwithstanding any other law to the contrary, real estate loans and mortgages made pursuant to section 88-119(1)(D) and (E) shall be in accordance with conditions and restrictions set forth by the board of trustees; provided that the board shall review its policy on the conditions and restrictions from time to time and formulate, amend, or repeal the conditions and restrictions giving full consideration to the prevailing economic conditions in the real estate industry; provided further that for good cause shown, the board of trustees shall duly consider a member's application for waiver of any condition or restriction imposed by the board of trustees. The board of trustees shall liberally construe this section; provided that no exception shall be made which may substantially impair the fiscal integrity of the system's funds. The board of trustees shall, subject to chapter 91, adopt, amend, and repeal rules having the force of and effect of law to implement this section."

SECTION 4. All acts passed by the legislature during this Regular Session of 1982, whether enacted before or after the effective date of this Act, shall be amended to conform to this Act unless such acts specifically provide that this Act is being amended.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1982.

(Approved June 5, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
RIDESHARING**

§ -1 **Ridesharing arrangement; defined.** As used in this chapter, “rides-sharing arrangement” means the transportation of persons in a motor vehicle where that transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools, and buspools.

§ -2 **Liability of employer.** An employer shall not be liable for injuries to passengers and other persons because the employer provides information, incentives, or otherwise encourages employees to participate in ridesharing arrangements, provided that this section shall not apply if the motor vehicle used in the ridesharing arrangement is owned, leased, or contracted for by the employer.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1982.)

ACT 167

S.B. NO. 2513-82

A Bill for an Act Relating to Public Utilities: Franchise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 240-1, Hawaii Revised Statutes, is amended to read as follows:

**“§240-1 Electric light and power companies, tax on.** Every person operating in the State an electric light or power business as a public utility, whose franchise does not provide for the payment to the county in which the public utility operates of a tax, or a tax of less than two and one-half per cent, based upon the gross receipts of such person from all electric light or power furnished to consumers during each calendar year, shall file with the director of finance of [such] the county in which the public utility operates, within one month after the expiration of each calendar year, a detailed statement showing all [such] gross receipts from all electric light or power furnished to consumers during the preceding calendar year[, and]. Such person shall, at the same time pay to the director of finance, for and on behalf of such county, in addition to any and all other payments required to be made by law, two and one-half per cent of the gross receipts; or, if such person’s franchise provides for a tax of less than two and one-half per cent of the gross proceeds, the difference between the tax required under such franchise and two and one-half per cent of the gross receipts, of such person from all electric light or power furnished to consumers during the preceding calendar year.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on January 1, 1984; provided that it

shall be applicable to the gross receipts in 1984 and thereafter.

(Approved June 5, 1982.)

## ACT 168

S.B. NO. 2550-82

A Bill for an Act Relating to Firearms.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 134-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every person who acquires a pistol or revolver pursuant to section 134-3 shall, within five days of acquisition, register it in the manner prescribed by this section.

Registration shall not be required for: (1) any device designed to fire loose black powder; (2) a device not designed to fire or made incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition; or (3) all unserviceable firearms and destructive devices registered with the Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of the Treasury pursuant to Title 27, Code of Federal Regulations.

The registration shall be on such forms [as may be] designated by the [department of the] attorney general, which shall be uniform throughout the State, and shall include the names of the manufacturer and importer, model, type of action, caliber or gauge, the serial number, [quantity and class of ammunition in the person's ownership and/or possession,] and the source from which receipt was obtained, including the name and address of the prior registrant.

No fee shall be charged for the registration.”

SECTION 2. Section 134-3, Hawaii Revised Statutes, is amended to read as follows:

“**§134-3 Permits to acquire; penalty.** (a) No person shall acquire the ownership of a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until [such] the person has first procured from the chief of police of the county of the person's place of business, or if there be no place of business, [such] the person's residence, or if there be neither place of business nor residence, [such] the person's place of sojourn, a permit to acquire as prescribed [herein;] in this section; provided that when title to any [such] firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of [same.] the firearm.

(b) The permit application form shall include the applicant's name, address, sex, height, weight, date of birth, place of birth, information regarding the applicant's mental health history, and social security number, and shall require the fingerprinting and photographing of the applicant by the police department of the county of registration, provided that where fingerprints and photograph are already on file with [said] the department, the fingerprinting and photographing may be waived.

(c) Applicants for a permit shall sign a waiver at time of application, upon forms to be specified by the [department of the] attorney general, allowing the chief of police of the county issuing permits access to any records which have a bearing on the mental health of the applicant. The forms prescribed by the attorney general under this section shall be uniform throughout the State.

(d) No person shall keep in his possession any firearm which is owned by another, whether or not the owner has consented to its possession, without a permit from the chief of police of the appropriate county, except as provided in section 134-5.

(e) Any lawfully acquired rifle or shotgun may be loaned to an adult for use within the State for a period not to exceed fifteen days without obtaining a permit, provided that where the rifle or shotgun is to be used outside of the State, the loan may be for a period not to exceed seventy-five days.

(f) No firearm shall knowingly be loaned to any person who is prohibited under section 134-7 from ownership or possession of a firearm.

(g) Each chief of police may issue permits, within the chief's jurisdiction, to acquire firearms to citizens of the United States of the age of eighteen years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien has first procured a hunting license under sections 191-1 to 191-6.

(h) Applications for the permits shall be signed by the applicant upon forms to be specified by the [department of the] attorney general and shall be signed by the issuing authority. One copy of the permit shall be retained by the issuing authority, as a permanent official record. Except for sales to dealers licensed under section 134-31, or dealers licensed by the United States Department of the Treasury, or to law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-2(a), a permit shall be issued to a first time firearm purchaser no earlier than ten calendar days after the date of application; provided that a permit shall be issued, or an application denied, no later than fifteen days from the date of the application. Persons who have previously obtained permits subject to the ten-day waiting period required by this subsection may be issued permits in less than ten days upon subsequent applications within one year. Permits issued to acquire any pistol or revolver shall be void unless used within ten days after the date of issue. Permits to acquire a pistol or revolver require a separate application and permit for each [acquisition.] transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue, subject to the disqualifications under section 134-7. In all cases where possession of a pistol or revolver is acquired from another person in the State the permit shall be signed in ink by the holder thereof and shall be delivered to and taken up by the person who is transferring title to the firearm, who shall make entry thereon setting forth in the space provided the name of the person to whom the firearm was transferred, and the make, style, caliber, and number as applicable. The person shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of the firearm is had by mail, express, freight, or otherwise, from sources without the State, the person to

whom the permit has been issued shall make the prescribed entries thereon, sign it in ink, and cause it to be delivered, or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm. No person shall sell, give, loan, or deliver into the possession of another any firearm [or ammunition] except in accordance with this section.

(i) No fee shall be charged for permits under this section.

(j) Any person who violates this section shall be guilty of a misdemeanor.”

SECTION 3. Section 134-5, Hawaii Revised Statutes, is amended to read as follows:

“§134-5 Possession by licensed hunters and minors; issuance of permits.

(a) Any person of the age of sixteen years or over, or any person under the age of sixteen years while accompanied by an adult, may carry and use any lawfully acquired rifle or shotgun and suitable ammunition while actually engaged in hunting or target shooting, or while going to and from the place of hunting or target shooting, if the person has procured a hunting license under section 191-1 to [191-6] 191-5 and provided minors shall also obtain a permit pursuant to subsection (b)[.] and provided further that a hunting license shall not be required for persons engaging in target shooting.

(b) The chief of police of each county may issue permits to citizens of the United States who are minors, but such permits shall be limited to the sole purpose of carrying and using any rifle or shotgun as provided in subsection (a). This permit shall expire [on the expiration date of the hunting license as provided in section 191-3.] one year from the date of issuance and shall be valid in all counties.

(c) Any lawfully acquired firearm may be loaned to another, even though the other person is a minor, upon a target range or similar facility for a period not longer than to allow the other person to then and there use it for target shooting, without a permit.”

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

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

ACT 169

S.B. NO. 2642-82

A Bill for an Act Relating to the Juvenile Justice Interagency Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571D-1, Hawaii Revised Statutes, is amended to read:

“[[§571-1]] **Juvenile justice interagency board.** There is established within the [state law enforcement planning agency] department of the attorney general for administrative purposes the juvenile justice interagency board, consisting of [seven] nine members which shall include a police chief of one of the counties, a senior judge of the family courts, the prosecuting attorney of a county, [and] a

representative from a private social service agency, and two additional members, all appointed by the governor as provided in section 26-34, and, the superintendent of education, the public defender, and the director of social services as ex officio members. The composition of the board shall include a resident member from each county in the State.

The [director of the state law enforcement planning agency] attorney general shall [be] designate the executive secretary of the board.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

ACT 170

S.B. NO. 2904-82

A Bill for an Act Relating to a Water Commission and Formulation of a State Water Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that the State, pursuant to Article XI, section 7, of the Constitution of the State of Hawaii, has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people by establishing conservation, quality, and use policies; defining beneficial and reasonable uses; protecting water resources and related environments; establishing criteria for water use priorities; safeguarding existing water uses; and establishing procedures for regulating all water uses. The legislature further finds that the formulation and enactment of a state water code is necessary to implement this constitutional provision.

The legislature finds that a comprehensive review of the numerous issues relating to Hawaii's water resources should be conducted by a specially designated study group. The purpose of this Act is to establish and fund an advisory study commission on water resources to carefully and comprehensively review the various issues relating to Hawaii's water resources, including existing state and county laws and rules relating to water resources, and to formulate a proposed water code.

SECTION 2. The water code is intended to be a permanent repository of fundamental principles and policies from which all rights, privileges, and powers of the citizens and the State to use, develop, and regulate water resources are logically derived. The basic function of the water code is to recognize, clarify, and systematize legal concepts relating to water resources. The water code shall include only fundamental matters of policy, principles, and rights that have continuous application and will not require or be subject to frequent amendment.

During the formulation of the water code, the areas to be considered by the advisory study commission on water resources shall include, but not be limited to:

- (1) The protection of water resources for the benefit of the people of Hawaii;
- (2) The preservation of environmental and ecological values;

- (3) Commonly accepted hydrological principles;
- (4) The prevention of excessive demands beyond the sustainable yield of any watershed;
- (5) The prevention of overdevelopment and undesirable developments which may adversely affect water resources;
- (6) The control of future water developments to insure that new projects and uses will be beneficial, promote the public interest, further the State's economic and social needs and goals, and provide continuity of sufficient quantities and appropriate quality of water from all sources;
- (7) The recognition, confirmation, and certification of the right to continue any existing beneficial use of water;
- (8) The protection of public and private investments in facilities for and enterprises dependent on beneficial uses of water;
- (9) The establishment of incentives for future water developments for desirable and needed beneficial uses of water;
- (10) The elimination of temporary and local water shortages through the development of storage facilities and importation of water;
- (11) The purchase and transfer of water rights;
- (12) The shift of water to new uses and the adaptation of water rights to accommodate population growth and to promote industrial and agricultural development; and
- (13) Changes in the use and distribution of water resources.

SECTION 3. There is established within the office of the legislative reference bureau for administrative purposes an advisory study commission on water resources, hereafter in this Act referred to as "the commission" which shall perform a study on water resources and shall formulate a state water code in line with the concerns noted in section 2 of this Act. The commission shall be an advisory body and shall recognize that all of its activities shall be primarily advisory, and that the policy making power shall remain with the legislature. The commission is to develop and recommend a state water code relating to the protection, control, and regulation of the use of Hawaii's water resources and shall be directly accountable to the legislature. The commission shall consist of thirteen voting members as follows: the chairman of the board of land and natural resources, the director of planning and economic development, the chairman of the Hawaiian homes commission, the director of health, the chief executive for each county board of water supply, and five appointees by the president of the senate and the speaker of the house of representatives, which shall include two members of the general public, one each to represent major water users, the Hawaii Farm Bureau Federation, and major landowners. Appointments to the commission shall be made within sixty days from the effective date of this Act.

Any vacancy on the commission shall be filled in the same manner in which the original position was filled. The commission shall elect a chairperson and vice-chairperson from among its members. A majority of the members of the commission shall constitute a quorum.

SECTION 4. The commission shall receive such administrative support from the office of the legislative reference bureau to accomplish its duties as it may

request. The commission shall have the power to appoint an advisory committee or committees from time to time, to assist in the formulation of the water code, to which employees of the State and counties and the non-public sector shall be eligible.

SECTION 5. Members of the commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SECTION 6. Prior to the convening of the second regular session following the effective date of this Act, the commission shall submit a progress report to the legislature. No later than twenty days prior to the convening of the third regular session following the effective date of this Act, the commission shall submit a report to the legislature which shall contain the commission's findings and recommendations and a proposed water code for consideration and, as appropriate, adoption by the legislature. Upon the adjournment of the third regular session following the effective date of this Act, the commission shall cease to exist.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary, for fiscal year 1982-1983, for use by the commission in carrying out the purposes of this Act.

SECTION 8. The sum appropriated shall be expended by the office of the legislative reference bureau for the purposes of this Act.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 5, 1982.)

ACT 171

H.B. NO. 1944-82

A Bill for an Act Relating to the Hawaii Code of Military Justice.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** Chapter 124 of the Hawaii Revised Statutes, relating to military courts-martial, was first enacted in 1894-1895 before Hawaii became a part of the United States. While it has occasionally been amended since then, it is still dated and lacking in comprehensiveness. To remedy its shortcomings, this Act replaces chapter 124, Hawaii Revised Statutes, with the Hawaii code of military justice.

The purpose of the Hawaii code of military justice is to provide a comprehensive law setting forth military judicial procedures which will apply to all members of the State's military forces, primarily National Guard units, while they are not in federal service but on duty status with the State. The Hawaii code is based on the Uniform Code of Military Justice of the National Conference of Commissioners on Uniform State Laws which in turn is based on and generally follows the United States Uniform Code of Military Justice (10 U.S.C. 801 *et seq.*; see also 32 U.S.C. 326-333), except for provisions not applicable to or suitable for state military forces not in federal service. The Hawaii code includes provisions dealing with apprehension, restraint and confinement of suspects; punishable offenses;



non-judicial punishment; state courts-martial jurisdiction, composition, and trial procedures; and sentencing and confinement.

One of the important provisions of the United States Code of Military Justice is the right of appeal, which has had a salutary effect on the administration of justice in the various branches of the military. This and other features designed to insure better protection of the rights of the individual without sacrificing command efficiency are included in the Hawaii code of military justice.

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

## “CHAPTER HAWAII CODE OF MILITARY JUSTICE

### PART I. GENERAL PROVISIONS

- § -1 **Definitions.** In this chapter, unless the context otherwise requires:
- (1) “Accuser” means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused.
  - (2) “Active state duty” means duty in the active military service of the State under an order of the governor issued under authority vested in him by law, and includes travel to and from such duty.
  - (3) “Adjutant general” means the adjutant general of the State of Hawaii as defined in section 121-7.
  - (4) “Commanding officer” includes only commissioned officers.
  - (5) “Commissioned officer” includes a commissioned warrant officer.
  - (6) “Convening authority” includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.
  - (7) “Duty status other than active state duty” means any time when members and units of the state military forces assemble for drill or other equivalent training, instruction, or duty or participate in field training, encampments, maneuvers, schools, conferences, cruises, or other similar duties as may be prescribed by the laws of the United States (including but not limited to title 32 of the United States Code) or of the State and any regulations issued thereunder, and includes travel to and from such duty.
  - (8) “Enlisted member” means a person in an enlisted grade.
  - (9) “Governor” means the governor of the State of Hawaii.
  - (10) “Grade” means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.
  - (11) “Law officer” means an official of a general court-martial detailed in accordance with section -45.
  - (12) “Law specialist” means a commissioned officer of the organized militia of the State designated for special duty.

- (13) "Legal officer" means any commissioned officer of the organized militia of the State designated to perform legal duties for a command.
- (14) "Military" refers to any or all of the armed forces.
- (15) "Military court" means a court-martial, a court of inquiry, or a provost court.
- (16) "Officer" means commissioned or warrant officer.
- (17) "Rank" means the order of precedence among members of the state military forces.
- (18) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the state military forces.
- (19) "State military forces" means the national guard of the State, as defined in section 101(3) of title 32, United States Code, the organized naval militia of the State, and any other military force organized under the laws of the State.
- (20) "Superior commissioned officer" means a commissioned officer superior in rank or command.

§ -2 **Persons subject to this chapter.** This chapter applies to all members of the state military forces who are not in federal service, but who are on active state duty or on duty status other than active state duty.

§ -3 **Jurisdiction to try certain personnel.** (a) Each person discharged from the state military forces who is later charged with having fraudulently obtained his discharge is, subject to section -68, subject to trial by court-martial on that charge and is after apprehension subject to this chapter while in the custody of the military for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

(b) No person who has deserted from the state military forces may be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.

§ -4 **Dismissal of commissioned officer.** (a) If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(b) If the governor fails to convene a general court-martial within six months from the presentation of an application for trial under this chapter, the adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(c) If a discharge is substituted for a dismissal under this chapter, the governor

alone may reappoint the officer of such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(d) If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, he has no right to trial under this section.

§ -5 **Territorial applicability of the chapter.** (a) This chapter applies throughout the State. It also applies to all persons otherwise subject to this chapter while they are serving outside the State, and while they are going to and returning from such service outside the State, in the same manner and to the same extent as if they were serving inside the State.

(b) Courts-martial and courts of inquiry may be convened and held in units of the state military forces while those units are serving outside the State with the same jurisdiction and powers as to persons subject to this chapter as if the proceedings were held inside the State, and offenses committed outside the State may be tried and punished either inside or outside the State.

§ -6 **Judge advocates and legal officers.** (a) The governor, on the recommendation of the adjutant general, shall appoint an officer of the state military forces as state judge advocate. To be eligible for appointment, an officer must be a member of the bar of the highest court of the State and must have been a member of the bar of the State for at least five years.

(b) The adjutant general may appoint as many assistant state judge advocates as he considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the state military forces and members of the bar of the highest court of the State.

(c) The state judge advocate or his assistants shall make frequent inspections in the field in supervision of the administration of military justice.

(d) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officer in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command may communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the state judge advocate.

(e) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, in any case may later act as staff judge advocate or legal officer to any reviewing authority upon the same case.

## PART II. APPREHENSION AND RESTRAINT

§ -11 **Apprehension.** (a) Apprehension is the taking of a person into custody.

(b) Any person authorized by this chapter, or by rules issued under it, to apprehend persons subject to this chapter, any marshal of a court-martial

appointed pursuant to this chapter, and any peace officer authorized to do so by law, may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, petty officers, and noncommissioned officers may quell quarrels, affrays, and disorders among persons subject to this chapter and apprehend persons subject to this chapter who take part therein.

§ -12 **Apprehension of deserters.** Any civil officer having authority to apprehend offenders under the laws of the United States or this State or of a state, territory, commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the state military forces and deliver him into the custody of the state military forces. If an offender is apprehended outside the State, his return to the area shall be in accordance with normal extradition procedures or reciprocal agreement.

§ -13 **Imposition of restraint.** (a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this chapter or through any person authorized by this chapter to apprehend persons. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c) A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

(d) No person may be ordered apprehended or into arrest or confinement except for probable cause.

(e) This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

§ -14 **Restraint of persons charged with offenses.** Any person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, such person shall not ordinarily be placed in confinement. When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

§ -15 **Confinement in jails.** Persons confined other than in a guardhouse, whether before, during, or after trial by a military court, shall be confined in state correctional facilities designated by the governor or by such person as he may authorize to act.

§ -16 **Reports and receiving of prisoners.** (a) No provost marshal, commander of a guard, master at arms, warden, keeper, or officer of a state correctional facility designated under section -15, may refuse to receive or keep any

prisoner committed to his charge, when the committing person furnishes a statement, signed by him, of the offense charged against the prisoner.

(b) Every commander of a guard, master at arms, warden, keeper, or officer of a state correctional facility designated under section -15, to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer of the prisoner the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

§ -17 **Punishment prohibited before trial.** Subject to section -83, no person, while being held for trial or as the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

§ -18 **Delivery of offenders to civil authorities.** (a) Under such rules as may be adopted under this chapter, a person subject to this chapter who is on active state duty or on duty status other than active state duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery under this section is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

### PART III. NON-JUDICIAL PUNISHMENT

§ -21 **Commanding officer's non-judicial punishment.** (a) Under such rules as the governor may adopt, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

- (1) Upon an officer of his command:
  - (A) Withholding of privileges for not more than two consecutive weeks;
  - (B) Restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or
  - (C) If imposed by the governor, the commanding officer of a force of the state military forces, or the commanding general of a division, a fine or forfeiture of pay and allowances of not more than \$75;
- (2) Upon other military personnel of his command:
  - (A) Withholding of privileges for not more than two consecutive weeks;
  - (B) Restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;
  - (C) Extra duties for not more than fourteen days, which need not be consecutive, and for not more than two hours a day, holidays included;
  - (D) Reduction to next inferior grade if the grade from which demoted was established by the command or an equivalent or lower

command;

- (E) If imposed upon a person attached to or embarked in a vessel, confinement for not more than seven consecutive days; or
- (F) If imposed by an officer exercising special court-martial jurisdiction over the offender, a fine or forfeiture of pay and allowances of not more than \$10.

(b) The governor may, by rule, place limitations on the powers granted by this section with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise those powers.

(c) An officer in charge may, for minor offenses, impose on enlisted members assigned to the unit of which he is in charge, such of the punishments authorized to be imposed by commanding officers as the governor may by rule specifically prescribe, as provided in subsections (a) and (b) of this section.

(d) A person punished under this section who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges, and property affected.

(e) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(f) Whenever a punishment of forfeiture of pay and allowances is imposed under this section, the forfeiture may apply to pay or allowances accruing on or after the date that punishment is imposed and to any pay and allowances accrued before that date.

#### PART IV. COURTS-MARTIAL JURISDICTION

§ -31 **Courts-martial of state military forces not in federal service; composition; jurisdiction; powers and proceedings.** (a) In the state military forces not in federal service, there are general, special, and summary courts-martial constituted like similar courts of the armed forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

(b) The three kinds of courts-martial are:

- (1) General courts-martial, consisting of a law officer and not less than five members;
- (2) Special courts-martial, consisting of not less than three members; and
- (3) Summary courts-martial, consisting of one commissioned officer.

§ -32 **Jurisdiction of courts-martial in general.** Each force of the state military forces has court-martial jurisdiction over all persons subject to this chapter.

The exercise of jurisdiction by one force over personnel of another force shall be in accordance with rules adopted by the governor.

§ -33 **Jurisdiction of general courts-martial.** Subject to section -32, general courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter and may, under such limitations as the governor may prescribe, adjudge any of the following punishments:

- (1) A fine of not more than \$200;
- (2) Forfeiture of pay and allowances;
- (3) A reprimand;
- (4) Dismissal or dishonorable discharge;
- (5) Reduction of a noncommissioned officer to the ranks; or
- (6) Any combination of these punishments.

§ -34 **Jurisdiction of special courts-martial.** Subject to section -32, special courts-martial have jurisdiction to try persons subject to this chapter for any offense for which they may be punished under this chapter. A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than \$100 for a single offense.

§ -35 **Jurisdiction of summary courts-martial.** (a) Subject to section -32, summary courts-martial have jurisdiction to try persons subject to this chapter, except officers, for any offense made punishable by this chapter.

(b) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto, unless under section -21 he has been permitted and has elected to refuse punishment under that section. If objection to trial by summary court-martial is made by an accused who has not been permitted to refuse punishment under section -21, trial shall be ordered by special or general court-martial, as may be appropriate.

(c) A summary court-martial may sentence to a fine of not more than \$25 for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer to the ranks.

§ -36 **Sentences of dismissal or dishonorable discharge to be approved by the governor.** In the organized militia not in federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor.

§ -37 **Complete record of proceedings and testimony if dishonorable discharge, bad conduct discharge, or dismissal adjudged.** A dishonorable discharge, bad conduct discharge, or dismissal may not be adjudged by any court-martial unless a complete record of the proceedings and testimony before the court has been made.

§ -38 **Confinement instead of fine.** In the state military forces not in federal service, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each dollar of the authorized fine.

## PART V. APPOINTMENT AND COMPOSITION OF COURTS-MARTIAL

§ -41 **Who may convene general courts-martial.** In the state military forces not in federal service, general courts-martial may be convened by the governor or by the adjutant general.

§ -42 **Special courts-martial of state military forces not in federal service; who may convene.** (a) In the state military forces not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority. When any such officer is an accuser, the court shall be convened by superior competent authority.

(b) A special court-martial may not try a commissioned officer.

§ -43 **Summary courts-martial of state military forces not in federal service; who may convene.** (a) In the state military forces not in federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(b) When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

§ -44 **Who may serve on courts-martial.** (a) Any commissioned officer of or on duty with the state military forces is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer of or on duty with the state military forces is eligible to serve on general or special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c) Any enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if, before the convening of the court, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(d) In this section, the word "unit" means any regularly organized body of the state military forces not larger than a company, a squadron, a division of the naval militia, or a body corresponding to one of them.

(e) When it can be avoided, no person subject to this chapter may be tried by a court-martial any member of which is junior to him in rank or grade.

(f) When convening a court-martial, the convening authority shall detail as members thereof such members as, in his opinion, are best qualified for the duty by



reason of age, education, training, experience, length of service, and judicial temperament. No member is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case. If within the command of the convening authority there is present and not otherwise disqualified a commissioned officer who is a member of the bar of the highest court of the State and of appropriate rank and grade, the convening authority shall appoint him as president of a special court-martial. Although this requirement is binding on the convening authority, failure to meet it in any case does not divest a military court of jurisdiction.

§ -45 **Law officer of a general court-martial.** (a) The authority convening a general court-martial shall detail as law officer thereof a commissioned officer who is a member of the bar of the highest court of the State, or a member of the bar of a federal court, and who is certified to be qualified for such duty by the state judge advocate. No person is eligible to act as law officer in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(b) The law officer may not consult with the members of the court, other than on the form of the findings as provided in section -64, except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

§ -46 **Detail of trial counsel and defense counsel.** (a) For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel, and such assistants as he considers appropriate. No person who has acted as investigating officer, law officer, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel, or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

- (b) Trial counsel or defense counsel detailed for a general court-martial:
- (1) Must be a person who is a member of the bar of the highest court of the State, or a member of the bar of a federal court;
  - (2) Must be certified as competent to perform such duties by the state judge advocate.
- (c) In the case of a special court-martial:
- (1) If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and
  - (2) If the trial counsel is a member of the bar of the highest court of the State, the defense counsel detailed by the convening authority must be one of the foregoing.

§ -47 **Detail or employment of reporters and interpreters.** Under such rules as the governor may adopt, the convening authority of a general or special court-martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court. Under like rules the convening authority of a military court may detail or employ inter-

preters who shall interpret for the court.

§ -48 **Absent and additional members.** (a) No member of a general or special court-martial may be absent or excused after the accused has been arraigned except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

(b) Whenever a general court-martial is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the law officer, the accused, and counsel.

(c) Whenever a special court-martial is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. When the new members have been sworn, the trial shall proceed as if no evidence has previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

## PART VI. PRE-TRIAL PROCEDURE

§ -51 **Charges and specifications.** (a) Charges and specifications shall be signed by a person subject to this chapter under oath before a person authorized by this chapter to administer oaths and shall state:

(1) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(2) That they are true in fact to the best of his knowledge and belief.

(b) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as practicable.

§ -52 **Compulsory self-incrimination prohibited.** (a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

§ -53 **Investigation.** (a) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the

matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(b) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(c) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b), no further investigation of that charge is necessary under this section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(d) The requirements of this section are binding on all persons administering this chapter but failure to follow them does not divest a military court of jurisdiction.

§ -54 **Forwarding of charges.** When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the governor. If that is not practicable, he shall report in writing to the governor the reasons for delay.

§ -55 **Advice of state judge advocate and reference for trial.** (a) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the state judge advocate for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless he has found that the charge alleges an offense under this chapter and is warranted by evidence indicated in the report of the investigation.

(b) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

§ -56 **Service of charges.** The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person may, against his objection, be brought to trial before a general court-martial within a period of five days after the service of the charges upon him, or before a special court-martial within a period of three days after the service of the charges upon him.

## PART VII. TRIAL PROCEDURE

§ -61 **Governor to adopt rules.** Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial and other military tribunals, and procedures for courts of inquiry, shall be prescribed by the governor by rules, which shall apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the State, but which may not be contrary to or inconsistent with this chapter.

§ -62 **Unlawfully influencing action of court.** No authority convening a general, special, or summary court-martial nor any other commanding officer, or officer serving on the staff thereof, may censure, reprimand, or admonish the court or any member, law officer, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts.

§ -63 **Duties of trial counsel and defense counsel.** (a) The trial counsel of a general or special court-martial shall prosecute in the name of the State, and shall, under the direction of the court, prepare the record of the proceedings.

(b) The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under section -46. Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the president of the court.

(c) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

(d) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by section -46, perform any duty imposed by law, rule, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section -46, perform any duty imposed by law, rule, or the custom of the service upon counsel for the accused.

§ -64 **Sessions.** Whenever a general or special court-martial deliberates or votes, only the members of the court may be present. After a general court-martial has finally voted on the findings, the court may request the law officer and the reporter to appear before the court to put the findings in proper form, and those proceedings shall be on the record. All other proceedings, including any other consultation of the court with counsel or the law officer, shall be made a part of the

record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in general court-martial cases, the law officer.

§ -65 **Continuances.** A court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

§ -66 **Challenges.** (a) Members of a general or special court-martial and the law officer of a general court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The court shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Each accused and the trial counsel is entitled to one preemptory challenge, but the law officer may not be challenged except for cause.

§ -67 **Oaths.** (a) The law officer, interpreters, and, in general and special courts-martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, and reporters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully.

(b) Each witness before a military court shall be examined on oath or affirmation.

§ -68 **Statute of limitations.** (a) A person charged with desertion or absence with leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.

(b) Except as otherwise provided in this section, a person charged with desertion in time of peace or with the offense punishable under section -151 is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(c) Except as otherwise provided in this section, a person charged with any offense is not liable to be tried by court-martial or punished under section -21 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section -21.

(d) Periods in which the accused was absent from territory in which the state has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this section.

§ -69 **Former jeopardy.** (a) No person may, without his consent, be tried a second time in any military court of the State for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this section.

§ -70 **Pleas of the accused.** If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or

through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

§ -71 **Opportunity to obtain witnesses and other evidence.** (a) The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such rules as the governor may adopt.

(b) The president of a court-martial or a summary court officer may:

- (1) Issue a warrant for the arrest of any accused person who having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;
- (2) Issue subpoenas duces tecum and other subpoenas;
- (3) Enforce by attachment the attendance of witnesses and the production of books and papers; and
- (4) Sentence for refusal to be sworn or to answer, as provided in actions before civil courts of the State.

(c) Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall run to any part of the State and shall be executed by civil officers as prescribed by the laws of the State.

§ -72 **Refusal to appear or testify.** Any person not subject to this chapter who:

- (1) Has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before such a court;
- (2) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the circuit court; and
- (3) Wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce;

is guilty of an offense against the State and a military court may punish him in the same manner as the civil courts of the State.

§ -73 **Contempts.** A military court may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for thirty days or a fine of \$100, or both.

§ -74 **Depositions.** (a) At any time after charges have been signed, as provided in section -51, any party may take oral or written depositions unless an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or

civil officer authorized by the laws of the State or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence before any court-martial or in any proceeding before a court of inquiry, if it appears:

- (1) That the witness resides or is beyond the county in which the court-martial or court of inquiry is ordered to sit;
- (2) That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or
- (3) That the present whereabouts of the witness is unknown.

§ -75 **Admissibility of records of courts of inquiry.** (a) In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.

(c) Such testimony may also be read in evidence before a court of inquiry or a military board.

§ -76 **Voting and rulings.** (a) Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) The law officer of a general court-martial and the president of a special court-martial shall rule upon interlocutory questions, other than challenge, arising during the proceedings. Any such ruling made by the law officer of a general court-martial or by the president of a special court-martial upon any interlocutory questions other than a motion for a finding of not guilty, or the question of accused's sanity, is final and constitutes the ruling of the court. However, the law officer or president may change the ruling at any time during the trial except a ruling on a motion for a finding of not guilty that was granted. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in section -77 beginning with the junior in rank.

(c) Before a vote is taken on the findings, the law officer of a general court-martial and the president of a special court-martial shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

- (1) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;
- (2) That in the case being considered, if there is a reasonable doubt as to the

guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

- (3) That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and
- (4) That the burden of proof of establishing the guilt of the accused beyond reasonable doubt is upon the State.

§ -77 **Number of votes required.** (a) No person may be convicted of an offense, except by the concurrence of two-thirds of the members present at the time that the vote is taken.

(b) All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

(c) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

§ -78 **Court to announce action.** A court-martial shall announce its findings and sentence to the parties as soon as determined.

§ -79 **Record of trial.** (a) Each court-martial shall keep a separate record of the proceedings of the trial of each case brought before it and the record shall be authenticated by the signatures of the president and the law officer. If the record cannot be authenticated by either the president or the law officer, by reason of his death, disability, or absence, it shall be signed by a member in lieu of him. If both the president and the law officer are unavailable, the record shall be authenticated by two members. A record of the proceedings of a trial in which the sentence adjudged includes a bad-conduct discharge or is more than that which could be adjudged by a special court-martial shall contain a verbatim account of the proceedings and testimony before the court. All other records of trial shall contain such matter and be authenticated in such manner as the governor may by rule prescribe.

(b) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated. If a verbatim record of trial by general court-martial is not required by subsection (a), but has been made, the accused may buy such a record under such rules as the governor may adopt.

## PART VIII. SENTENCES

§ -81 **Cruel and unusual punishments prohibited.** Cruel or unusual punishment may not be adjudged by any court-martial or inflicted upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

§ -82 **Maximum limits.** The punishment which a court-martial may direct for an offense may not exceed limits prescribed by this chapter.

§ -83 **Effective date of sentences.** (a) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the



convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(b) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement. Rules adopted by the governor may provide that sentences of confinement may not be executed until approved by designated officers.

(c) All other sentences of courts-martial are effective on the date ordered executed.

§ -84 **Execution of confinement.** (a) A sentence of confinement adjudged by a military court, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the state military forces or in any state correctional facility designated for that purpose. Persons so confined in a state correctional facility are subject to the same discipline and treatment as persons confined or committed to a state correctional facility by the courts of the State.

(b) The omission of the words "hard labor" from any sentence or punishment of a court-martial adjudging confinement does not deprive the authority executing that sentence or punishment of the power to require hard labor as a part of the punishment.

(c) The keepers, officers, and wardens of state correctional facilities designated by the governor, or by such person as he may authorize to act under section -15, shall receive persons ordered into confinement before trial and persons committed to confinement by a military court and shall confine them according to law. No such keeper, officer, or warden may require payment of any fee or charge for so receiving or confining a person.

## PART IX. REVIEW OF COURTS-MARTIAL

§ -91 **Execution of sentence; suspension of sentence.** Except as provided in sections -37 and -97, a court-martial sentence, unless suspended, may be ordered executed by the convening authority when approved by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence as approved by him.

§ -92 **Initial action on the record.** After a trial by court-martial the record shall be forwarded to the convening authority, as reviewing authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the governor.

§ -93 **General court-martial records; opinion by staff judge advocate.** The convening authority shall refer the record of each general court-martial to the staff judge advocate who shall submit his written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

§ -94 **Reconsideration and revision.** (a) If a specification before a court-

martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(b) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned:

- (1) For reconsideration of a finding of not guilty, or a ruling which amounts to a finding of not guilty;
- (2) For reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this chapter; or
- (3) For increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

§ -95 **Rehearings.** (a) If the convening authority disapproves the findings and sentence of a court-martial, he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(b) Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

§ -96 **Approval by the convening authority.** In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

§ -97 **Review of records; disposition.** (a) If the convening authority is the governor, his action on the review of any record of trial is final, subject only to an appeal for judicial review pursuant to section -105.

(b) In all other cases not covered by subsection (a), if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate or legal officer of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate or legal officer shall then be sent to the state judge advocate for review.

(c) All other special and summary court-martial records shall be sent to the law specialist or legal officer of the appropriate force of the state military forces and shall be acted upon, transmitted, and disposed of as may be prescribed by rules

adopted by the governor; provided that any final disposition of any special court-martial under this subsection is subject to appeal for judicial review pursuant to section -105.

(d) The state judge advocate shall review the record of trial in each case sent to him for review as provided under subsection (b). If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state judge advocate is limited to questions of jurisdiction.

(e) The state judge advocate shall take final action in any case reviewable by him, subject only to an appeal for judicial review pursuant to section -105.

(f) In a case reviewable by the state judge advocate under this section, the state judge advocate may act only with respect to the findings and sentence as approved by the convening authority. He may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, he may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate sets aside the findings and sentence, he may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.

(g) In a case reviewable by the state judge advocate under this section, he shall instruct the convening authority to act in accordance with his decision on the review. If he has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(h) The state judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the state military forces, each of whom must be a member of the bar of the highest court of the State. Each board of review shall review the record of any trial by special court-martial, including a sentence to a bad-conduct discharge, referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section.

§ -98 **Error of law; lesser included offense.** (a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm so much of the finding as includes a lesser included offense.

§ -99 **Review counsel.** (a) Upon the final review of a sentence of a general court-martial or of a sentence to a bad-conduct discharge, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate.

(b) Upon the request of an accused entitled to be so represented, the state judge advocate shall appoint a lawyer who is a member of the state military forces and who has the qualifications prescribed in section -46, if available, to represent the accused before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate, in the review of

cases specified in subsection (a) of this section.

(c) If provided by him, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, before the staff judge advocate or legal officer, as the case may be, and before the state judge advocate.

§ -100 **Vacation of suspension.** (a) Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the governor in cases involving a general court-martial sentence and to the commanding officer of the force of the state military forces of which the probationer is a member in all other cases covered by subsection (a) of this section. If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

§ -101 **Petition for a new trial.** At any time within two years after approval by the convening authority of a court-martial sentence which extends to dismissal, dishonorable or bad-conduct discharge, the accused may petition the governor for a new trial on ground of newly discovered evidence or fraud on the court-martial.

§ -102 **Remission and suspension.** (a) A convening authority may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures.

(b) The governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

§ -103 **Restoration.** (a) Under such rules as the governor may adopt, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon a new trial or rehearing.

(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) If a previously executed sentence of dismissal is not imposed on a new trial, the governor shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the governor alone to such commissioned grade and with such rank as in the opinion of the governor that former officer would have attained had he not been dismissed. The reappointment of such a former officer may be made if a position vacancy is available under applicable tables of organization. All time between the dismissal and reappointment shall be considered as service for all

purposes, including the right to pay and allowances.

§ -104 **Finality of proceedings, findings, and sentences.** The proceedings, findings, and sentences of courts-martial as reviewed and approved, as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following review and approval, as required by this chapter, are final and conclusive, subject only to an appeal for judicial review pursuant to section -105. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the State, subject only to action upon a petition for a new trial as provided in section -101 or upon an appeal for judicial review pursuant to section -105.

§ -105 **Judicial review by state supreme court.** (a) An accused, who was tried by a special or general court-martial and who still deems himself aggrieved after he has exhausted all of his rights of review under this part, shall be entitled to appeal the judgment or sentence of the special or general court-martial, as may have been modified on review under this part prior to judicial review under this section, to the state supreme court, subject to chapter 602, in the manner and within the time provided by the Hawaii Rules of Penal Procedure. All appeals, whether heard by the intermediate appellate court or the supreme court, shall be filed with the clerk of the supreme court and shall be subject to one filing fee.

(b) The filing of an appeal pursuant to subsection (a) shall not of itself stay the execution of the judgment or sentence appealed from, but the supreme court or the intermediate appellate court may stay the same upon motion upon such conditions as it may deem proper, notwithstanding any conflicting or contrary provision in this chapter relating to the effective date or execution of sentences or any other contrary provision of law.

(c) In reviewing the judgment or sentence of a special or general court-martial, as may have been modified on review prior to judicial review, the supreme court or the intermediate appellate court, as the case may be, may take any of the actions and exercise any of the powers specified in section 641-16 as the court may deem appropriate in reviewing a judgment or sentence of a military court-martial, and the court shall follow as appropriate or applicable the standards and requirements in section 641-16.

(d) Upon the request of the accused, the state judge advocate shall appoint a lawyer, who is a member of the bar of the highest court of the State and who has been certified under section -45, to represent the accused in his appeal of the court-martial judgment or sentence to the supreme court. If the accused wishes to be represented by civilian counsel, rather than by appointed military counsel, he may do so at his own expense.

## PART X. PUNITIVE ARTICLES

§ -111 **Persons to be tried or punished; offenses subject to jurisdiction; conflicts over jurisdiction with civil authority or courts.** (a) No person may be tried or punished for any offense provided for in sections -112 to -155 of this chapter, unless it was committed while he was in a duty status.

(b) The jurisdiction of courts-martial and the imposition of disciplinary punishment by a commanding officer for minor offenses without the intervention

of a court-martial shall be limited to violations of the punitive articles (sections 112 to 155) of this chapter, including violations of any rules adopted by the governor, under section 155, specifying or defining "disorders and neglects to the prejudice of good order and discipline in the state military forces". Jurisdiction over crimes or offenses not enumerated in or covered by the punitive articles of this chapter is reserved to civil authority and the civil courts. Conflicts or doubts over jurisdiction shall be resolved in favor of civil jurisdiction.

The delivery to civil authority of any person subject to this chapter who is on active state duty or on duty status other than active state duty and accused of an offense against civil authority shall be governed by section 18.

§ -112 **Principals.** Any person subject to this chapter who:

- (1) Commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or
- (2) Causes an act to be done which if directly performed by him would be punishable by this chapter;

is a principal.

§ -113 **Accessory after the fact.** Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

§ -114 **Conviction of lesser included offense.** An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

§ -115 **Attempts.** (a) An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

§ -116 **Conspiracy.** Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

§ -117 **Solicitation.** (a) Any person subject to this chapter who solicits or advises another or others to desert in violation of section 120 or mutiny in violation of section 129 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 134 or sedition in violation of section 129 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall

be punished as a court-martial may direct.

§ -118 **Fraudulent enlistment, appointment, or separation.** Any person who:

- (1) Procures his own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or
- (2) Procures his own separation from the state military forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

§ -119 **Unlawful enlistment, appointment, or separation.** Any person subject to this chapter who effects an enlistment or appointment in or a separation from the state military forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, rule, or order shall be punished as a court-martial may direct.

§ -120 **Desertion.** (a) Any member of the state military forces who:

- (1) Without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;
- (2) Quits his unit, organization or place of duty with intent to avoid hazardous duty or to shirk important service; or
- (3) Without being regularly separated from one of the state military forces enlists or accepts an appointment in the same or another one of the state military forces, or in one of the armed forces of the United States, without fully disclosing the fact that he has not been regularly separated;

is guilty of desertion.

(b) Any commissioned officer of the state military forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct.

§ -121 **Absence without leave.** Any person subject to this chapter who, without authority:

- (1) Fails to go to his appointed place of duty at the time prescribed;
- (2) Goes from that place; or
- (3) Absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

§ -122 **Missing movement.** Any person subject to this chapter who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

§ -123 **Contempt towards officials.** Any person subject to this chapter who uses contemptuous words against the president, the governor, or the governor of any other state, territory, commonwealth, or possession in which that person may be serving, shall be punished as a court-martial may direct.

§ -124 **Disrespect towards superior commissioned officer.** Any person subject to this chapter who behaves with disrespect towards his superior commissioned officer shall be punished as a court-martial may direct.

§ -125 **Assaulting or wilfully disobeying superior commissioned officer.** Any person subject to this chapter who:

- (1) Strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of this office; or
- (2) Wilfully disobeys a lawful command of his superior commissioned officer;

shall be punished as a court-martial may direct.

§ -126 **Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.** Any warrant officer or enlisted member who:

- (1) Strikes or assaults a warrant officer, noncommissioned officer or petty officer, while that officer is in the execution of his office;
- (2) Wilfully disobeys a lawful order of a warrant officer, noncommissioned officer, or petty officer; or
- (3) Treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

§ -127 **Failure to obey order or regulation.** Any person subject to this chapter who:

- (1) Violates or fails to obey any lawful general order or regulation;
- (2) Having knowledge of any other lawful order issued by a member of the state military forces which it is his duty to obey, fails to obey the order; or
- (3) Is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

§ -128 **Cruelty and maltreatment.** Any person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

§ -129 **Mutiny or sedition.** (a) Any person subject to this chapter who:

- (1) With intent to usurp or override lawful military authority refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;
- (2) With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;
- (3) Fails to do this utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

§ -130 **Resistance, breach of arrest, and escape.** Any person subject to this



chapter who resists apprehension or breaks arrest or who escapes from physical restraint lawfully imposed shall be punished as a court-martial may direct.

§ -131 **Releasing prisoner without proper authority.** Any person subject to this chapter who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.

§ -132 **Unlawful detention of another.** Any person subject to this chapter who, except as provided by law or rule, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

§ -133 **Noncompliance with procedural rules.** Any person subject to this chapter who:

- (1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this chapter; or
- (2) Knowingly and intentionally fails to enforce or comply with any provision of this chapter regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

§ -134 **Misbehavior before the enemy.** Any person subject to this chapter who before or in the presence of the enemy;

- (1) Runs away;
- (2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;
- (3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;
- (4) Casts away his arms or ammunition;
- (5) Is guilty of cowardly conduct;
- (6) Quits his place of duty to plunder or pillage;
- (7) Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces;
- (8) Wilfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or
- (9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the State, or to any other state, when engaged in battle;

shall be punished as a court-martial may direct.

§ -135 **Subordinate compelling surrender.** Any person subject to this chapter who compels or attempts to compel the commander of any of the state military forces of the State, or of any other state, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

§ -136 **Improper use of countersign.** Any person subject to this chapter who in time of war discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he

was authorized and required to give, shall be punished as a court-martial may direct.

§ -137 **Forcing a safeguard.** Any person subject to this chapter who forces a safeguard shall be punished as a court-martial may direct.

§ -138 **Captured or abandoned property.** (a) All persons subject to this chapter shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this chapter who:

- (1) Fails to carry out the duties prescribed in subsection (a);
- (2) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or
- (3) Engages in looting or pillaging;

shall be punished as a court-martial may direct.

§ -139 **Aiding the enemy.** Any person subject to this chapter who:

- (1) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or
- (2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall be punished as a court-martial may direct.

§ -140 **Misconduct of a prisoner.** Any person subject to this chapter who, while in the hands of the enemy in time of war:

- (1) For the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or rule, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or
- (2) While in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

§ -141 **False official statements.** Any person subject to this chapter, who, with intent to deceive, signs any false record, return, rule, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

§ -142 **Military property; loss, damage, destruction, of wrongful disposition.** Any person subject to this chapter who, without proper authority:

- (1) Sells or otherwise disposes of;
- (2) Wilfully or through neglect damages, destroys, or loses; or
- (3) Wilfully or through neglect suffers to be damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States or of the State shall be punished as a court-martial may direct.

§ -143 **Property other than military property; waste, spoilage, or destruction.** Any person subject to this chapter who, while in a duty status, wilfully or recklessly wastes, spoils, or otherwise wilfully and wrongfully destroys or damages any

property other than military property of the United States or of the State shall be punished as a court-martial may direct.

§ **-144 Improper hazarding of vessel.** (a) Any person subject to this chapter who wilfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel of the armed forces of the United States or of the state military forces shall be punished as a court-martial may direct.

§ **-145 Drunken or reckless driving.** Any person subject to this chapter who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

§ **-146 Drunk on duty; sleeping on post; leaving post before relief.** Any person subject to this chapter who is found drunk on duty or sleeping upon his post, or who leaves his post before he is regularly relieved, shall be punished as a court-martial may direct.

§ **-147 Dueling.** Any person subject to this chapter who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.

§ **-148 Malingering.** Any person subject to this chapter who for the purpose of avoiding work, duty or service in the state military forces:

- (1) Feigns illness, physical disablement, mental lapse or derangement; or
- (2) Intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

§ **-149 Riot or breach of peace.** Any person subject to this chapter who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

§ **-150 Provoking speeches or gestures.** Any person subject to this chapter who uses provoking or reproachful words or gestures towards any other person subject to this chapter shall be punished as a court-martial may direct.

§ **-151 Perjury.** Any person subject to this chapter who in a judicial proceeding or in a court of justice conducted under this chapter wilfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

§ **-152 Frauds against the government.** Any person subject to this chapter:

- (1) Who, knowing it to be false or fraudulent:
  - (A) Makes any claim against the United States, the State, or any officer thereof; or
  - (B) Presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the State, or any officer thereof;
- (2) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the State, or any officer thereof:
  - (A) Makes or uses any writing or other paper knowing it to contain any

false or fraudulent statements;

- (B) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or
- (C) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;
- (3) Who, having charge, possession, custody, or control of any money, or other property of the United States or the State, furnished or intended for the armed forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or
- (4) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State, furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the State; shall,

upon conviction, be punished as a court-martial may direct.

§ -153 **Larceny and wrongful appropriation.** (a) Any person subject to this chapter who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:

- (1) With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or
- (2) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

§ -154 **Conduct unbecoming an officer.** Any commissioned officer who is convicted of conduct unbecoming an officer shall be punished as a court-martial may direct.

§ -155 **General article.** Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the state military forces as shall be specified or defined by the governor by rules, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

## PART XI. MISCELLANEOUS PROVISIONS

§ -161 **Courts of inquiry.** (a) Courts of inquiry to investigate any matter may be convened by the governor or by any other person designated by the governor for that purpose, whether or not the persons involved have requested such an inquiry.

(b) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c) Any person subject to this chapter whose conduct is subject to inquiry shall be designated as a party. Any person subject to this chapter or employed in the department of defense, who has a direct interest in the subject of inquiry has the right to be designated as party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

§ -162 **Authority to administer oaths.** (a) The following members of the state military forces may administer oaths for the purposes of military administration, including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public:

- (1) The state judge advocate and all assistant state judge advocates;
- (2) All law specialists;
- (3) All summary courts-martial;
- (4) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants;
- (5) All commanding officers of the naval militia;
- (6) All legal officers;
- (7) The president, law officer, trial counsel, and assistant trial counsel for all general and special courts-martial;
- (8) The president and the counsel for the court of any court of inquiry;
- (9) All officers designated to take a deposition;
- (10) All persons detailed to conduct an investigation; and
- (11) All other persons designated by rules of the governor.

(b) Officers of the state military forces may not be authorized to administer oaths as provided in this section unless they are on active duty in or with those forces under orders of the governor as prescribed in this chapter.

(c) The signature without seal of any such person, together with the title of his office, is prima facie evidence of his authority.

§ -163 **Sections to be explained.** Sections -2, -3, -11, -21,

-44, -46, -62, -81, -111 to -153, and -163 to -165 shall be carefully explained to every enlisted member at the time of his enlistment or transfer or induction into, or at the time of his order to duty in or with any of the state military forces or within thirty days thereafter. They shall also be explained annually to each unit of the state military forces. A complete text of this chapter and of the rules adopted by the governor thereunder shall be made available to any member of the state military forces, upon his request, for his personal examination.

§ -164 **Complaints of wrongs.** Any member of the state military forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the governor or adjutant general.

§ -165 **Redress of injuries to property.** (a) Whenever complaint is made to any commanding officer that wilful damage has been done to the property of any person or that his property has been wrongfully taken by members of the state military forces, he may, subject to such rules as the governor may adopt, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive, except as provided in subsection (c), on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be paid to the injured parties from the military funds of the units of the state military forces to which the offenders belonged.

(c) Any person subject to this chapter who is accused of causing wilful damage to property has the right to be represented by counsel, to summon witnesses in his behalf, and to cross-examine those appearing against him. He has the right of appeal to the next higher commander.

§ -166 **Execution of process and sentence.** In the state military forces not in federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the State.

§ -167 **Process of military courts.** (a) Military courts may issue any process or mandate necessary to carry into effect their powers. Such a court may issue subpoenas and subpoenas duces tecum and enforce by attachment attendance of witnesses and production of books and records, when it is sitting within the State and the witnesses, books, and records sought are also so located.

(b) Process and mandates may be issued by summary courts-martial, provost courts, or the president of other military courts and may be directed to and may be executed by the marshals of the military court or any peace officer and shall be in such form as may be prescribed by rules issued under this chapter.

(c) All officers to whom process or mandates may be so directed shall execute

them and make return of their acts thereunder according to the requirements of those documents. Except as otherwise specifically provided in this chapter, no such officer may demand or require payment of any fee or charge for receiving, executing, or returning such a process or mandate or for any service in connection therewith.

§ -168 **Payment of fines and disposition thereof.** Fines imposed by a military court may be paid to it or to an officer executing its process. The amount of such fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until the fine is liquidated. Any sum so deducted shall be returned to the military court which imposed the fine. The officer collecting a fine or penalty imposed by a military court upon an officer or enlisted man shall pay it within thirty days to the director of finance to the credit of the state general fund.

§ -169 **Immunity for action of military courts.** No accused may bring an action or proceeding against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.

§ -170 **Presumption of jurisdiction.** The jurisdiction of the military courts and boards established by this chapter shall be presumed and the burden of proof rests on any person seeking to oust those courts or boards of jurisdiction in any action or proceeding.

§ -171 **Delegation of authority by the governor; rule-making authority of governor.** (a) The governor may delegate any authority vested in him under this chapter, and may provide for the subdelegation of any such authority, except the power given him by sections -36 and -41.

(b) The governor, in accordance with chapter 91, may adopt such rules as he may deem necessary to administer and implement this chapter. Any rules required to be adopted by any provision in this chapter shall be adopted in accordance with chapter 91. Chapter 91 shall apply notwithstanding section 121-5 or any other contrary provision of law.

§ -172 **Uniformity of interpretation.** This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and, so far as practical, to make that law uniform with the law of the United States."

SECTION 3. Section 121-31, Hawaii Revised Statutes, is amended to read as follows:

**"§121-31 [Regulations for United States Army and Air Force] Hawaii Code of Military Justice to apply.** Whenever any portion of the militia, including the army or air national guard, is on active service pursuant to the order of the governor, or is on duty or ordered to assemble for duty in time of war, insurrection, invasion, public danger, or to aid the civil authorities on account of any breach of the peace, tumult, riot, resistance to the process of the State, or imminent danger thereof, or while engaged in disaster relief or for any other cause, the [Uniform] Hawaii Code of Military Justice and [regulations governing the army and air force of the United States as far as the code and regulations are consistent with the laws of

this State,] rules adopted to administer and implement that Code, shall be enforced and regarded as a part of this chapter until the forces are relieved from duty. [As to offenses committed when the Uniform Code of Military Justice is in force, courts-martial shall possess, in addition to the jurisdiction and power of sentence and punishment here vested in them, all additional jurisdiction and power of sentence and punishment exercisable by like courts under the Uniform Code of Military Justice or the regulations or laws governing the United States army or air force, or the customs and usages thereof, subject to the limitations prescribed by this chapter and chapter 124. Any violation of the Uniform Code of Military Justice which constitutes a felony under the laws of the State shall be prosecuted in the courts of the State.]”

SECTION 4. Section 122-10, Hawaii Revised Statutes, is amended to read as follows:

“§122-10 [Uniform] Hawaii Code of Military Justice; freedom from arrest; jury duty. Whenever the Hawaii state guard or any part thereof is ordered out for active service[,], pursuant to the order of the governor, the [Uniform] Hawaii Code of Military Justice [of the United States] applicable to members of the national guard of this State in relation to courts-martial, their jurisdiction and the limits of punishment, and the rules and regulations prescribed thereunder shall be in full force and effect with respect to the Hawaii state guard.

No officer or enlisted man of the Hawaii state guard shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of the Hawaii state guard shall, during his service, be exempt from service upon any posse comitatus and from jury duty.”

SECTION 5. Section 121-32, Hawaii Revised Statutes, is repealed.

SECTION 6. Chapter 124, Hawaii Revised Statutes, is repealed.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect upon its approval; provided that this Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

(Approved June 5, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5



*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-54, Hawaii Revised Statutes, is amended to read as follows:

**“§286-54 Nonresidents.** A nonresident owner of a motor vehicle which has been duly registered for the current year in the state or country of which he is a resident and in accordance with the laws thereof, may, in lieu of registering the vehicle as otherwise required by this part, apply to the director of finance for the registration thereof as provided in this section.

A nonresident owner shall, within ten days after commencing to operate the vehicle or causing or permitting it to be operated within the State, apply to the director of finance for the registration thereof upon the appropriate official form stating therein the name and home address of the owner and the temporary address, if any, of the owner while within the State, the registration number of the vehicle as assigned thereto in the state or country in which the owner is a resident, together with such description of the motor vehicle as may be called for in the form and such other statements of facts as may be required by the director of finance.

The director of finance shall file every application received and register the vehicle therein described and the owner thereof in suitable books or on index cards, and shall[, without charge,] issue to the owner a registration certificate of a distinctive form containing the date of its issue, a brief description of the vehicle, and a statement that the owner has procured registration of the vehicle as a nonresident.

No nonresident owner of a motor vehicle which has been duly registered for the current year in the state or country of which he is a resident shall operate any such vehicle or cause or permit to be operated upon the public highways, either before or while it is registered under this section, unless there is at all times displayed thereon the current registration number plates assigned to the vehicle [for the current calendar year] by the state or country of which the owner is a resident, nor unless the certificate of registration [when issued thereto, is placed in a certificate holder and securely fasten the same in plain sight within the driver's compartment of the vehicle for which the certificate is issued,] is kept within the vehicle for which it is registered, or in the event the vehicle is a motorcycle, carry such certificate of registration in [the tool bag or other] a convenient receptacle attached to the vehicle. The director of finance shall also furnish the owner with an emblem bearing a serial number with the words “VEHICLE PERMIT” and the date of expiration of such emblem to be placed on the rear bumper in plain sight of such vehicle, or when issued to a motorcycle emblem to be placed on rear fender.

Every certificate of registration issued pursuant to this section shall be valid for the unexpired portion of the current license number plates assigned to the vehicle in accordance with the law of the state or country of which the owner is a resident; provided[, ] that in no case shall such a certificate be issued to exceed a twelve month period.

Whenever a vehicle is registered under this section, the sum of \$5 shall be assessed against the owner of the vehicle to defray the administrative costs incurred by the country. Subsequent changes in the amount of the administrative costs shall be established by the county's legislative body.”

SECTION 2. Statutory material to be repealed is bracketed. New material is

underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 5, 1982.)

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-13, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) [For the period of eight years from September 1, 1975, and terminating on August 31, 1983, the] The commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section 294-23. [This eight-year period shall be a period of open rating.] Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies’ rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

Notwithstanding this prohibition, the commissioner shall, in his discretion, intervene at any time [during this [eight-year period,]<sup>1</sup> to adjust rates, for the no-fault, mandatory, or optional-additional coverages, being assessed by any or all insurers, upon a finding that all or any rates are excessively high or unconscionably below the actual costs of provision of the coverage being assured.

[On June 1, 1983 the applicable transition provisions of this chapter shall be effective as to rate making and the commissioner shall perform all acts required by this chapter for the setting and regulation of uniform rates conforming to this chapter to be effective on and after September 1, 1983.]

In the establishment of their individual rate schedules, each insurer shall conform fully to subsection (b)(1), (2), and (4)[, during the open rating period].”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

Note

1. So in original.

A Bill for an Act Relating to Public Agency Meetings and Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-17, Hawaii Revised Statutes, is amended to read:

**“§92-17 Consumer complaints; procedures and remedies.** (a) All boards as defined by section 92-2(1) established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint or upon receipt of an investigation report generated by the board on its own motion which establishes an alleged violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. If the board finds that the charge constitutes a violation, the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding the money paid as fees for services;
- (2) Correcting the work done in providing services;
- (3) Revocation of the licensee's permit or license;
- (4) Suspension of the licensee's permit or license; and
- (5) Any other reasonable means to secure relief as determined by the board.

(c) Notwithstanding any provision to the contrary:

- (1) No license or permit shall be suspended by the board for a period exceeding two years.
- (2) A person whose license or permit has been revoked by the board may not reapply for a license until the expiration of at least two years from the effective date of the revocation of the license or permit.

[(c)] (d) The failure or refusal of the licensee to comply with any board order, including an order of license suspension, shall also constitute grounds for further disciplinary action, including a suspension or revocation of license, imposition of which shall be subject to chapter 91 and the procedural rules of the board. The board may also apply to any circuit court for injunctive relief to compel compliance with the board's order. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

[(d)] (e) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

[(e)] (f) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to the provisions of chapter 658. In the event of any such agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b) of this section; provided that any such order or dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen any such proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b) of this section.

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for such purpose by the department of regulatory agencies.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

ACT 175

H.B. NO. 2196-82

A Bill for an Act Relating to the Contractors License Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 444, Hawaii Revised Statutes, is amended by adding a new section to read:

“§444-11.1 **Requirements to maintain license.** A licensed contractor shall have and maintain in full force and effect the following:

- (1) Workers’ compensation insurance when licensee is not authorized to act as self-insurer under chapter 386.
- (2) Liability insurance from an insurance company or agency for comprehensive personal injury and property damage liability.
- (3) Bond when required by the board, under section 444-16.5.

Failure, refusal or neglect of any licensed contractor to maintain in full force and effect, the applicable workers’ compensation insurance, liability insurance or bond shall cause the automatic suspension of the license of the contractor effective as of the date of expiration or cancellation of its workers’ compensation insurance, liability insurance or bond.

The board shall not reinstate the affected license until satisfactory proof of insurance and bond coverages is submitted to the board as required by this section.

Failure to effect a reinstatement of a suspended license within sixty days of the expiration of the requirements of licensing shall cause it to be terminated, thereby forfeiting all license, biennial renewal and recovery fund fees.

The board may assess a fee not to exceed \$1,000 as a condition for the reinstatement of a license suspended pursuant to this section.

A licensee may, within fifteen days after receipt of the notification of the license suspension, request an administrative hearing to review the suspension pursuant to chapter 91.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect sixty days after its approval.

(Approved June 5, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 176

H.B. NO. 2210-82

A Bill for an Act Relating to the State Higher Education Loan Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-93, Hawaii Revised Statutes, is amended to read:

**“§304-93 Repayment of loans.** All loans made under this part shall bear interest at three per cent simple interest. Repayment of principal and interest charges shall commence nine months after graduation or [withdrawal from the degree program] after a borrower ceases to be enrolled at least half-time in a degree program and shall be paid in periodic installments within a ten year period. The board of regents may, upon application by the student and upon a showing of good cause, defer repayment of the loan and commencement of interest. Liability for repayment of a loan shall be cancelled upon the death or permanent total disability of the borrower.

The university may spend out of the state higher education loan fund up to one per cent of the total amount of loans in force for the collection of repayments. In addition, all interest collected shall revert to and be credited to the loan fund.”

SECTION 2. New statutory material is underscored. Statutory material to be deleted is bracketed.

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

(Approved June 5, 1982.)

## ACT 177

H.B. NO. 2244-82

A Bill for an Act Relating to Veteran's Rights and Benefits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 363-1, Hawaii Revised Statutes, is amended by amending the definition of “dependent” to read as follows:

““Dependent” of a veteran means any person who received from a veteran his principal support prior to entry or following entry of the veteran into any of the armed services[.] or following the veteran’s discharge from any of the armed services. It includes a dependent of a person currently serving in the service and a former dependent of a discharged or deceased veteran and of a person who has died in such service. It shall not include a dependent of a person discharged under other than honorable conditions.”

SECTION 2. Section 363-8, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 363-9, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 363-10, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

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

(Approved June 5, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 178

H.B. NO. 2270-82

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A no-fault policy, including required optional additional insurance meeting provisions of section 294-11, once issued may not be canceled or refused renewal by an insurer except for:

- (1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or
- (2) Failure to pay the premium for such policy after reasonable demand therefor.

In any case of cancellation or refusal to renew, the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew, written notice shall be given to the insured, not less than thirty days prior to the effective date of such cancellation or refusal to renew. Such cancellation or refusal to renew shall not be deemed valid unless supported by a certificate of mailing properly validated by the United States [Post Office.] Postal Service.

If the insurer has manifested in writing an offer to renew to the named insured at least thirty days prior to the end of the policy period and the offer is not accepted before the expiration of the policy term, the policy shall lapse upon that expiration date and this subsection shall not apply. Notwithstanding other valid methods of acceptance, an offer shall be deemed accepted as of the date of mailing of the acceptance. The date of mailing may be evidenced by the postmark or a certificate of mailing properly validated by the United States Postal Service.”

SECTION 2. Section 431-448.1, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 179

H.B. NO. 2571-82

A Bill for an Act Relating to Employment of Attorneys.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

“§103-3 **Employment of attorneys.** No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund;
- (6) To the Hawaii crime commission;
- (7) To the grand jury counsel;
- (8) The office of Hawaiian affairs;
- (9) To the department of regulatory agencies; provided that such attorney shall be responsible for the prosecution of consumer complaints.

[(9)] (10) In the event of the attorney general, for reasons deemed by him good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term “department of the State” means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii crime commission or as a grand jury counsel, or the department of regulatory agencies in prosecution of consumer complaints, shall become a deputy attorney general.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

ACT 180

H.B. NO. 2849-82

A Bill for an Act Relating to the Public Employees Health Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$14.88] \$15.98 for each of their respective employee-

beneficiaries and [~~\$47.34~~] \$49.14 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan[.]; provided[.] that<sup>1</sup> the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them. The monthly contribution shall be based upon the HMSA regular plan rates which are approved by the board.

(b) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [~~\$5.00~~] \$5.28 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 5, 1982.)

Note

1. Prior to amendment, this area read “plan; provided that”.

ACT 181

H.B. NO. 2980-82

A Bill for an Act Relating to Professional Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 416-147, Hawaii Revised Statutes, is amended to read as follows:

“§416-147 Transfer of shares. Shares in a professional corporation may be transferred only to a licensed person or<sub>2</sub> to the professional corporation, and any transfer in violation of this restriction shall be void[.]; provided that this section shall not prevent a professional from transferring part or all of such shares to a revocable living or inter-vivos trust with respect to which such professional:

- (1) Retains the unilateral right of revocation;
- (2) Is sole beneficiary during his lifetime; and
- (3) Is either a trustee or co-trustee or otherwise retains the right to direct the trustee in all matters related to the corporation or its shares;

but nothing in such trust nor in this section shall in any way diminish the liability of the professional with respect to the professional actions of the corporation.

A professional corporation may purchase and redeem its own shares without regard to any restrictions provided in this chapter upon the purchase and redemption of shares of its own stock by a corporation, if at least one share remains issued



and outstanding after such purchase and redemption.

If the corporation fails to acquire all of the shares of a disqualified or deceased shareholder, or if the disqualified shareholder or the representative of a deceased shareholder fails to transfer [said] the shares to the corporation or to a licensed person, within ninety days following the date of disqualification, or within six months following the date of death of such shareholder, as the case may be, then the certificate of registration or order of appointment of the professional corporation may be suspended or revoked by the regulating board of the profession in which the corporation is engaged. In the event of such suspension or revocation the corporation shall cease forthwith to render professional services.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

## ACT 182

H.B. NO. 3016-82

A Bill for an Act Relating to Birth Certificates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 338, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

“§338- **Certificates for children born out of State.** (a) Upon application of an adult or the legal parents of a minor child, the director of health shall issue a birth certificate for such adult or minor, provided that proof has been submitted to the director of health that the legal parents of such individual while living without the Territory or State of Hawaii had declared the Territory or State of Hawaii as their legal residence for at least one year immediately preceding the birth or adoption of such child.

(b) Proof of legal residency shall be submitted to the director of health in any manner that the director shall deem appropriate. The director of health may also adopt any rules pursuant to chapter 91 that he or she may deem necessary or proper to prevent fraudulent applications for birth certificates and to require any further information or proof of events necessary for completion of a birth certificate.

(c) The fee for each application for registration shall be established by rule adopted pursuant to chapter 91.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on January 1, 1983.

(Approved June 5, 1982.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

**"§281-31 Licenses, classes.** Licenses may be granted by the liquor commission as follows:

Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturers' license to have any interest whatsoever in the license or licensed premises of any other licensee.

Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods[.]; provided that samples of liquor may be sold back to the manufacturer. The license [shall] may authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption[.] if the licensee files an affidavit with the commission that there is not a class 4 retail dealers licensee available to sell the wholesalers brand of draught beer. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where his place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer has his license. Nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs, or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise as a common carrier, under chapter 269, engaged in regular flight passenger services between any two or more

airports in the State for use on aircraft, or aviation companies engaged in trans-pacific flight operations for use on aircraft outside the jurisdiction of the State.

**Class 4. Retail dealers' licenses.** A license to sell liquors at retail or to class 10 licenses, shall authorize the licensee to sell the liquors therein specified in their original packages. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

**Class 5. Dispensers' licenses.** A dispenser's license shall authorize the licensee to sell liquors therein specified for consumption on the premises. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

**Class 6. Club licenses.** A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

**Class 7. Vessel licenses.** A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

**Class 8. Additional vessel licenses.** A general license may be granted to the owner of any vessel which does not fall within class 7 for the sale of liquor (other than alcohol) on board the vessel while in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessels. The license shall be issuable in each county where the sales are to be made and the application for the license may be made by any agent representing the owner.

**Class 9. Tour or cruise vessel licenses.** A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the

shore of any island of the State, the same shall constitute a violation of this chapter.

Class 10. Special. A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under such conditions as may be approved by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Under such license the liquors therein specified shall be consumed on the premises.

Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, and professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to sell all liquors, except alcohol, for consumption on the premises; provided that the liquor commissions in each county shall adopt rules, as deemed appropriate by each respective liquor commission, restricting holders of hotel licenses in selling liquors authorized by retail dealers' licenses.

It shall be unlawful for any retail licensee (Classes 4 through 12) to purchase liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

Sections 281-57 to 281-61 shall not apply to Classes 7 to 10."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 5, 1982.)

ACT 184

S.B. NO. 2926-82

A Bill for an Act Relating to Release of Matching State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** For the past four years the State has received a federal grant for drug abuse treatment for nine private agencies (YMCA Detached Counselors Program, Salvation Army, Palama Settlement, Aloha House (Maui), Habilitat, Inc., Drug Addiction Services of Hawaii, Awareness House (Hilo), Waianae Rap Center, and Hale O'ulu). The grant has come from the National Institute on Drug Abuse (NIDA) and required forty per cent matching funds from the State. In the summer of 1981, the Congress abolished this form of NIDA funding and consolidated all such funding into a "block grant" allocated to the states. The

block grant for alcohol, drug, and mental health services does not require a matching amount from the State.

Act 1, Session Laws of Hawaii First Special Session 1981, appropriated matching funds for NIDA funding to the nine agencies previously mentioned. The appropriation is contained in section 3, item E-26 of Act 1.

The NIDA funding under the matching funds requirement ends on March 31, 1982. Because the block grants from which the nine affected agencies hope to obtain funding after March 31, 1982 do not require matching state funds, it is the opinion of the department of budget and finance that the agencies are not legally entitled to the funds appropriated under Act 1 and allocated to be released to the agencies for the last quarter of fiscal year 1981-1982.

If the nine affected agencies do not receive the state funds, it will have a severe impact on the important services provided by the agencies. It is the purpose of this Act to release the state "matching" funds allocated to the agencies for the last quarter of fiscal year 1981-1982 despite the absence of a matching requirement in the federal block grant.

SECTION 2. Notwithstanding any other law to the contrary, the sums appropriated in item E-26, section 3 of Act 1, Session Laws of Hawaii First Special Session 1981, may be expended notwithstanding that the sums appropriated were intended to be state matching funds to qualify for federal funding and federal funds no longer require matching state funds.

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

(Approved June 9, 1982.)

ACT 185

H.B. NO. 1882

A Bill for an Act Relating to Protection of Instream Uses of Water.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**"CHAPTER  
PROTECTION OF INSTREAM USES OF WATER**

§ -1 **Short title.** This chapter shall be known and may be cited as the "Hawaii Instream Use Protection Act of 1982."

§ -2 **Declaration of purpose.** The legislature finds and declares that the people of the State have a vital interest in the protection and enhancement, where practicable, of beneficial instream uses of water. Existing laws authorize only fragmented protection and enhancement measures and do not provide a comprehensive planning process for the protection and enhancement where practicable of beneficial instream uses of water such as fishery, water-related wildlife resources, recreational, aesthetic, scenic, and other environmental opportunities.

The legislature further finds and declares that the health, safety, and welfare of the people of the State require that there be a comprehensive program to

provide for the protection and enhancement, where practicable, of beneficial instream uses.

It is the intent of the legislature that the State shall develop instream flow standards and instream flow programs to protect and enhance, where practicable, beneficial instream uses of water.

§ -3 **Definitions.** The following terms, whenever used and referred in this chapter, shall have the following respective meanings, unless a different meaning clearly appears in the context:

“Alteration” means to obstruct, diminish, destroy, alter, modify, relocate, or change the natural existing shape of the channel or to change the direction of flow of water of any stream channel. It will include the removal of material from the stream channel and replacement of material or structures in other stream channels.

“Instream use” means the beneficial use of water for significant purposes which are located in the stream and which are achieved by leaving the water in the stream. Beneficial instream uses include, but are not necessarily limited to, the maintenance of fisheries and water-related wildlife resources; outdoor recreational activities; ecosystems such as estuaries, wetlands, and stream vegetation; aesthetic values such as waterfalls and scenic waterways; navigation; hydro-power generation; water quality maintenance; and the conveyance of irrigation and domestic water supplies to downstream points of diversion. The diversion of irrigation and domestic uses of stream waters are considered beneficial uses of stream waters.

“Board” means the board of land and natural resources.

“Continuous flowing water” means a sufficient flow of water that could provide for migration and movement of fish, and includes those reaches of streams which, in their natural state, normally go dry seasonally at the location of the proposed alteration.

“Department” means the department of land and natural resources.

“Instream flow standard” means a quantity or flow of water or depth of water which is required to be present at a specific location in a stream system at certain specified times of the year to protect fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses.

“Person” means any person, firm, association, organization, partnership, business trust, corporation, company, the State of Hawaii and its agencies and departments, political subdivisions of the State of Hawaii, and the United States of America and any of its agencies and department.

“Stream channel” means a natural watercourse with definite beds and banks which confines and conducts continuous flowing water. The channel referred to is that which exists at the present time, regardless of where the channel may have been located at any time in the past.

“Stream system” includes stream, lake, or other body of water, and tributaries and contributory sources, or a segment of any of these.

§ -4 **General powers and duties of the board of land and natural resources.** The board of land and natural resources shall establish and administer the instream use protection program provided by this chapter for windward Oahu districts. In carrying out the provisions of this chapter, the board will

cooperate with the United States government or any of its agencies, other state agencies, and the county governments and any of their agencies. In the performance of its duties the board shall:

- (1) Establish instream flow standards for the windward Oahu districts whenever necessary to protect the public interest in waters of the State.
  - (A) The board may, on its own motion, determine that the public interest in the waters of the State requires the establishment of an instream flow standard for streams in windward Oahu districts.
  - (B) In acting upon the establishment of instream flow standards, the board shall set forth in writing its conclusion that the public interest does or does not require, as is appropriate, an instream flow standard to be set for the stream, the reasons therefor, and the findings supporting the reasons.
  - (C) Each instream flow standard shall describe the flows necessary to protect the public interest in the particular stream. Flows shall be expressed in terms of variable flows of water necessary to protect adequately fishery, wildlife, recreational, aesthetic, scenic, or other beneficial instream uses in the stream in light of existing and potential water developments.
  - (D) Establishment or modification of an instream flow standard shall be initiated by the board by providing notice of its intention to set an instream flow standard in a newspaper of general circulation published in the vicinity of the stream in question, and to persons who have previously requested such notice.
  - (E) After giving notice of its intention to set an instream flow standard, the board or other agencies in participation with the board shall investigate the stream. During the process of this investigation, the board shall consult with and consider the recommendations of the department of health, the United States Fish and Wildlife Service, and other agencies having interest in or information on the stream, and may consult with and consider the recommendations of persons having interest in or information on the stream. In formulating the proposed standard the board shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water from the stream for non-instream purposes, including the economic impact of restriction of such uses. In order to avoid or minimize the impact on existing uses of preserving, enhancing, or restoring instream values, the board shall consider physical solutions, including water exchanges, modifications of project operations, changes in points of diversion, changes in time and rate of diversion, and uses of water from alternative sources or any other solution.
  - (F) Before adoption of an instream flow standard or modification of an established instream flow standard, the board shall give notice and hold a hearing on its proposed standard or modification.
- (2) Establish interim instream flow standards.

- (A) Any person may petition the board to adopt an interim instream flow standard for streams of the windward Oahu districts in order to protect the public interest pending the establishment of a permanent instream flow standard.
  - (B) Any interim instream flow standard adopted under this section shall terminate upon the establishment of a permanent instream flow standard for the stream on which the interim standard was adopted.
  - (C) A petition to adopt an interim instream flow standard under this section shall set forth data and information concerning the need to protect and conserve beneficial instream uses of water, and any other relevant and reasonable information required by the board.
  - (D) In considering a petition to adopt an interim instream flow standard, the board shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for non-instream purposes.
  - (E) The board shall grant or reject a petition to adopt an interim instream flow standard under this section within one hundred eight days of the date the petition is filed. The one hundred eighty days may be extended a maximum of one hundred eighty days at the request of the petitioner and subject to the approval of the board.
- (3) Protect stream channels from alteration whenever practicable in windward Oahu to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses.
- (A) The board shall require persons to obtain a permit from the board prior to undertaking a stream channel alteration in windward Oahu.
  - (B) The board shall establish guidelines for processing and considering applications for stream channel alterations.
  - (C) The board shall require filing fees by users to accompany each application for stream channel alteration.
- (4) Establish an instream flow program for windward Oahu to protect, enhance, reestablish, where practicable, beneficial instream uses of water. The board shall conduct investigations, collect instream flow data including fishing, wildlife, aesthetic, recreational, water quality, and ecological information and basic streamflow characteristics necessary for determining instream flow requirements.

§ -5 **Enactment of rules and regulations.** The department shall enact necessary rules and regulations within one and one-half years from the effective date of this chapter.

§ -6 **Violations; penalties.** Any person violating any provision of this chapter or any permit condition or limitation established pursuant to this chapter or negligently or willfully failing or refusing to comply with any final order of the board issued as provided herein, shall be liable for a civil penalty not to exceed \$1,000 for such violation and an additional civil penalty not to exceed \$500 for each day during said violation continues.



§ -7 **Administrative and judicial review.** Any person who is aggrieved or adversely affected by an order or action by the board shall be entitled to judicial review in accordance with chapter 91, Hawaii Revised Statutes.”

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

SECTION 3. **Effective date.** This Act shall take effect on July 1, 1982, and shall expire upon the enactment of a statewide Water Code.

(Approved June 9, 1982.)

ACT 186

H.B. NO. 3078-82

A Bill for an Act Relating to Time Sharing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following index is provided to assist the readers hereof in finding the relevant portions of this Act:

- Section 2. (§514E-2.5) Licensing of Sales Agents and Acquisition Agents.
- Section 3. (§514E-16) Deposit of Purchaser’s Funds, Notes and Contracts in Escrow.
- Section 4. (§514E-17) Release of Purchaser’s Funds, Notes and Contracts From Escrow Without A Closing.
- Section 5. (§514E-18) Release of Purchaser’s Funds, Notes and Contracts Upon Closing.
- Section 6. Definitions:  
 “Blanket Lien”  
 “Non-Disturbance Agreement”  
 “Notice of Time Share Plan”  
 “Purchase Money Lien”  
 “Purchase Money Contract”  
 “Record”  
 “Negotiable Instrument”  
 “Purchaser”  
 “Owner”  
 “Association”
- Section 7. (§514E-19) Protection of Purchasers From Blanket Liens.
- Section 8. (§514E-20) Effect of Recording a Nondisturbance Agreement.
- Section 9. (§514E-21) Effect of Recording A Notice of Time Share Plan.

Section 10.	(§514E-22)	General Requirements for Trusts
Section 11.	(§514E-23)	Requirements for Trustees
Section 12.	(§514E-24)	Additional Requirements for Lien Payment Trusts.
Section 13.	(§514E-25)	Lien Payment Deposit
Section 14.	(§514E-26)	Termination of A Trust
Section 15.	(§514E-27)	Alternative Arrangements for Purchaser Protections.
Section 16.	(§514E-28)	Requirements for Surety Bonds and Letters of Credit.
Section 17.	(§514E-29)	Association.
Section 18.	(§514E-30)	Scope of This Act.
Section 19.		Material Repealed.
Section 20.		Effective Date.

SECTION 2. Section 514E-2.5, Hawaii Revised Statutes, is amended to read:

**“§514E-2.5 Licensing of sales agents and acquisition agents. (a)** Except as provided in section 467-2, no sales agent or acquisition agent shall act or assume to act as a real estate salesman or a real estate broker without a license previously obtained under and in compliance with chapter 467 and the rules and regulations of the real estate commission. No sales agent or acquisition agent shall solicit or encourage others to attend a time share sales presentation or to contact a time share sales agent or developer except as otherwise provided for by rules adopted by the director pursuant to chapter 91 without a license previously obtained under and in compliance with chapter 467 and the rules and regulations of the real estate commission.

**(b)** The director shall adopt rules and regulations limiting the activities of and governing sales agents and acquisition agents, whether or not such persons are also licensed under chapter 467. Such regulations:

- (1) May authorize an acquisition agent who is not licensed under chapter 467 to invite others to attend a time share sales presentation or an entertainment function offered in connection therewith so long as such invitation is made from a principal place of business, branch office, site office or booth operated in accordance with state and county laws by a person licensed under chapter 467 as a real estate broker;
- (2) May authorize an acquisition agent who is not licensed under chapter 467 to extend invitations from a booth without requiring the physical presence of a person licensed under chapter 467, provided that the acquisition agent remains in the booth at all times;
- (3) Shall provide that any acquisition agent not licensed under chapter 467

shall be employed, either directly or as an independent contractor, by a sales agent or acquisition agent who in either case is licensed as a real estate broker under chapter 467;

- (4) Shall provide that a real estate broker who employs, either directly or as an independent contractor, an acquisition agent who is not licensed under chapter 467 shall be responsible for the acts of such acquisition agent;
- (5) Shall establish rules and conditions strictly regulating and, if legally permissible prohibiting telephone solicitation of guests in hotels; and
- (6) Shall establish such other rules as the director deems to be in the public interest.

(c) If the director determines after notice and a hearing, that an acquisition agent or sales agent has violated any provision of this chapter or any rule or regulation adopted by the director pursuant to this chapter, the director may suspend or revoke the license of such person as a real estate broker, real estate salesman, acquisition agent, or sales agent."

SECTION 3. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**"§514E-16 Deposit of purchaser's funds, notes, and contracts into escrow.**

(a) All funds and any negotiable instruments and purchase money contracts received before closing from or on behalf of purchasers or prospective purchasers in connection with the purchase or reservation of time share interests must be placed in an escrow account. However, the developer or a sales agent may hold, until the expiration of the five day cancellation period provided by section 514E-8 or any longer purchaser cancellation period provided in the sales contract, a negotiable instrument, or purchase money contract made by a purchaser:

- (1) For which subsequent holders cannot claim holder in due course status within the meaning of article 3 of chapter 490; or
- (2) Where the payee is:
  - (A) The escrow agent; or
  - (B) The trustee of a lien payment trust.

(b) The escrow agent must be a bank, savings and loan association, or a trust company authorized to do business in the State under an escrow arrangement or a corporation licensed as an escrow depository under chapter 449. However, in connection with sales made out of the State for the use of time share units located in the State, the escrow agent may be located in and the purchasers' funds, negotiable instruments, and purchase money contracts may be impounded in the jurisdiction where the sale is made, if the law of such jurisdiction requires it. In such event, the out-of-state escrow agent shall be subject to the approval of the director.

(c) The establishment of such an escrow account shall be evidenced by a written escrow agreement between the developer and the in state or out-of-state escrow agent. The escrow agreement must provide for the handling of purchaser's funds, negotiable instruments, and purchase money contracts as required by this chapter and must contain any provisions required by rules adopted by the director pursuant to chapter 91."

SECTION 4. Chapter 514E, Hawaii Revised Statutes, is amended by adding

a new section to be designated and to read as follows:

**“§514E-17 Release of purchaser’s funds, notes, and contracts from escrow without a closing. (a) A purchaser’s funds, negotiable instruments, and purchase money contracts may be released from escrow without a closing as follows:**

- (1) If a purchaser or developer gives a valid notice of cancellation of the contract pursuant to section 514E-8, all of the purchaser’s funds and any negotiable instruments and purchase money contracts made by the purchaser shall be returned to the purchaser within fifteen days after the notice of cancellation is received.
- (2) If a purchaser or developer properly terminates a contract pursuant to its terms, or if a developer or prospective purchaser terminates a reservation agreement, all of the purchaser’s funds and any negotiable instruments and purchase money contracts made by the purchaser or prospective purchaser shall be delivered in accordance with the contract or reservation agreement.
- (3) If the purchaser defaults in the performance of his obligations under the contract, all of the purchaser’s funds and any negotiable instruments or purchase money contracts made by the purchaser under the contract shall be delivered in accordance with the contract.
- (4) If purchaser’s funds are to be used for construction the funds may be disbursed by the escrow agent from time to time to pay for:
  - (A) Construction costs of the buildings and improvements in proportion to the valuation of the work completed by the contractor in accordance with the contract documents, as certified by a registered architect or engineer and approved for payment by the construction lender;
  - (B) Architectural, engineering, and interior design service fees in proportion to the services performed within each phase of services, as approved by the construction lender;
  - (C) The costs of purchasing furnishings and fixtures for the time share units, as approved by the construction lender; and
  - (D) Finance and legal fees, and other incidental expenses of constructing the time share units or developing the time share plan as approved by the construction lender;

provided that no such disbursements shall be made unless the developer first deposits with the director (i) a copy of the executed construction contract, (ii) a copy of executed performance and labor and material payment bonds in an amount which is not less than one hundred per cent of the cost of construction and covering any changes to the contract which do not in the aggregate increase the amount of the construction contract by more than ten per cent, (iii) a verified statement showing all costs involved in completing the project, and (iv) satisfactory evidence acceptable to the director of funds sufficient to cover the total costs of constructing, furnishing, and completing the project from purchaser’s funds, equity funds, interim or permanent loan commitments or other sources.”

SECTION 5. Chapter 514E, Hawaii Revised Statutes, is amended by adding

a new section to be designated and to read as follows:

**“§514E-18 Release of purchaser’s funds, notes, and contracts from escrow upon closing.** (a) Upon the closing of the escrow for the sale of a time share interest, the purchaser’s funds and any negotiable instruments and purchase money contracts made by the purchaser shall be delivered by the escrow agent:

- (1) To the trustee of a lien payment trust if a lien payment trust is established pursuant to section 514E-19 to protect purchasers from blanket liens; or
- (2) As provided by any alternative arrangements accepted by the director pursuant to section 514E-27 where such alternative arrangements are used pursuant to section 514E-19 to protect purchasers from blanket liens; or
- (3) To the developer only after the requirements of any other alternative under section 514E-19 for protecting purchasers from blanket liens have been satisfied.

(b) Notwithstanding any other provision of this chapter, the escrow agent may not release the purchaser’s funds, negotiable instruments, and purchase money contracts from the escrow account to or for the benefit of the developer or a sales agent or for construction until:

- (1) The five-day cancellation period under section 514E-8 expires as to the purchaser whose funds are being released; and
- (2) The escrow agent receives a sworn statement from the developer that:
  - (A) No cancellation notice postmarked on a date within the five-day cancellation period was received from the purchaser whose funds are being released; and
  - (B) No cancellation notice was otherwise received during the five-day cancellation period from the purchaser whose funds are being released.”

SECTION 6. Section 514E-1, Hawaii Revised Statutes, is amended by adding the following definitions to be appropriately designated and to read as follows:

“( ) “Blanket lien” means any mortgage, deed of trust, option to purchase, vendor’s lien or interest under a contract or agreement of sale, or any other lien or encumbrance which (i) affects more than one time share interest either directly or by reason of affecting an entire time share unit or the property upon which the time share unit to be used by the purchasers is located, and (ii) secures or evidences the obligation to pay money or to sell or convey the property and which authorizes, permits, or requires the foreclosure and sale or other defeasance of the property affected; provided, however, that for the purpose of this chapter, the following shall not be considered blanket liens;

- (1) The lien of current real property taxes;
- (2) Taxes and assessments levied by public authority;
- (3) A lien for common expenses under chapter 514A or a lien for similar expenses in favor of a homeowners or community association;
- (4) An apartment lease or condominium conveyance document conveying a single condominium apartment or a lease of a single cooperative apartment; and
- (5) Any lien for costs or trustee’s fees charged by a trustee holding title to

time share units pursuant to a trust created under section 514E-19.

( ) "Nondisturbance agreement" means an instrument by which the holder of a blanket lien agrees that its rights in the property shall be subordinate to the rights of owners. Every nondisturbance agreement shall contain a covenant by the lienholder that the lienholder, its successors, and anyone who acquires the property through the blanket lien shall not use, or cause or permit the property to be used in a manner which prevents the owners from using the time share units in the manner contemplated by the time share plan. The lienholder's agreement not to disturb an owner may require as a continuing condition that the owner perform all obligations and make all payments due under any purchase money contract and, if the time share interest or unit is held as a leasehold, under the lease.

( ) "Notice of time share plan" means an instrument executed by the holder of the legal and equitable title to the fee or long-term leasehold interest in a time share unit, and which provides notice of the existence of the time share plan and of the rights of owners. The notice of the time share plan must identify the use period for each time share interest and the name of the initial purchaser thereof. If the time share unit is located outside the State, the notice shall be contained in a declaration of covenants, conditions, and restrictions which provide that the notice shall, as a matter of covenant, have the effects described in section 514E-21. The declaration of covenants, conditions, and restrictions must be prepared so as to (i) constitute a covenant running with and an equitable servitude upon the time share units for the duration of the time share plan; and (ii) have the effects described in section 514E-21.

( ) "Purchaser money lien" means a lien on a time share interest that is:

- (1) Taken or retained by the developer to secure payment by the purchaser of a time share interest of all or part of its price; or
- (2) Given by a purchaser to a person who provides financing to the purchaser to enable him to buy the time share interest.

The rights of a seller of a time share interest under an agreement of sale shall be considered a purchase money lien for the purpose of this section.

( ) "Purchase money contract" means any note, negotiable instrument, agreement of sale, installment sales contract, or other contract which evidences or embodies a debt arising from a purchase money loan made to a purchaser by the developer or a creditor (i) who is affiliated with the developer by common control, contract, or business arrangement, or (ii) to whom the developer referred the purchaser.

( ) "Record, recorded, etc." means to record in accordance with chapter 502, or to register in accordance with chapter 501.

( ) "Negotiable instrument" means any check, draft, bill of exchange, certificate of deposit, note, and any other document which is an "instrument" within the meaning of article 3 of chapter 490, including instruments subject to said article pursuant to section 490:3-805.

( ) "Purchaser" means any person who has contracted to acquire a time share interest.

( ) "Owner" means any person who owns a time share interest; provided, however, that to the extent and for such purposes as are provided in any agreement of sale, the vendee under such agreement of sale shall be considered the owner of the

time share interest.

( ) "Association" means the time share owners association."

SECTION 7. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**"§514E-19 Protection of purchasers from blanket liens.** (a) An escrow for the sale of a time share interest in a time share ownership plan may close only if the requirements of any one of the following alternatives for protecting the purchaser have been satisfied:

- (1) The time share interest is conveyed to the purchaser free and clear of any blanket liens.
- (2) The time share unit is conveyed to a trustee:
  - (A) Free and clear of any blanket liens under a trust meeting the requirements of section 514E-22 and 23; or
  - (B) Under a lien payment trust meeting the requirements of sections 514E-22, 23, 24, and 25.
- (3) (A) The time share interest is conveyed to the purchaser subject only to blanket liens:
  - (i) Where every person holding an interest in the blanket lien has executed and recorded a nondisturbance agreement; or
  - (ii) For which the director's acceptance of a surety bond or an irrevocable letter of credit meeting the requirements of section 514E-28 has been recorded with respect to that time share unit; and
- (B) If legal or equitable title will be held by anyone other than the purchaser, a notice of time share plan is recorded.
- (4) The requirements of any alternative arrangements accepted by the director have been met.

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

- (1) The time share unit is conveyed to a trustee:
  - (A) Free and clear of any blanket liens under a trust meeting the requirements of sections 514E-22 and 23; or
  - (B) Under a lien payment trust meeting the requirements of sections 514E-22, 23, 24, and 25.
- (2) A notice of time share plan is recorded and either:
  - (A) Every person holding an interest in a recorded blanket lien against any time share interests in that time share unit executes and records a nondisturbance agreement; or
  - (B) The director's acceptance of a surety bond or an irrevocable letter of credit meeting the requirements of section 514E-28 is recorded.
- (3) The requirements of any alternative arrangements accepted by the director have been met.

(c) A time share interest in any time share plan which satisfies the escrow and blanket lien protection requirements of this chapter shall not be deemed a risk capital security under chapter 485, and the offer or sale of a time share interest

therein shall not be deemed the offer or sale of a security.”

SECTION 8. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-20 **Effect of recording a nondisturbance agreement.** When a non-disturbance agreement has been executed by the lienholder and recorded, the lienholder, its successors, and anyone who acquires the property through foreclosure or by a deed, assignment, or other transfer in place of foreclosure, shall take the property subject to the rights of the owners.”

SECTION 9. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-21 **Effect of recording a notice of time share plan.** When a notice of time share plan is recorded, claims by creditors of the developer and claims upon, or by successors to, the interest of the title holder who executed the notice of time share plan, shall be subordinate to the interest of owners whose purchase of time share interests in the time share plan is closed after the notice of time share plan is recorded. The recording of a notice of time share plan shall not affect:

- (1) The rights or lien of a lienholder whose lien was recorded prior to the notice of time share plan;
- (2) The rights of the holder of an option recorded before the notice of time share plan;
- (3) The rights or lien of a lienholder having a purchase money lien on a time share interest.”

SECTION 10. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-22 **General requirements for trusts.** If time share units are required to be conveyed to a trustee pursuant to section 514E-19, the trust instrument must provide for at least the following:

- (1) Title to the time share units must be transferred to the trustee before the purchaser's funds are disbursed by the escrow agent.
- (2) The trustee shall not convey or transfer the time share units except for any units with respect to which no owner has any further right of occupancy or as permitted in section 514E-26.
- (3) The trustee shall be prohibited from encumbering the time share units unless the director shall consent thereto. Such consent shall be given if the trust shall meet all of the requirements of section 514E-24 or all requirements of one of the alternative provisions in section 514E-19 are then satisfied.
- (4) The association on behalf of the owners must expressly be made a third party beneficiary of the trust.
- (5) Notice of the intention of the trustee to resign must be given to the director at least ninety days before the resignation takes effect.
- (6) No amendment of the trust instrument adversely affecting the interest or rights of owners may be made without the written approval of the association.
- (7) Any other provisions required by the director as provided by rules adopted pursuant to chapter 91.”



SECTION 11. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-23 **Requirements for trustees.** If time share units are conveyed to a trustee pursuant to section 514E-19, the following requirements shall be met:

- (1) The trustee must be a bank, savings and loan association, or a trust company meeting the requirements of any rules adopted by the director pursuant to chapter 91.
- (2) The trustee must at all times:
  - (A) Maintain fidelity bonds in a form approved by the director in such amounts and providing coverage as required by rules adopted by the director pursuant to chapter 91; and
  - (B) Maintain a policy of errors and omissions insurance in a form approved by the director in such amounts and providing coverage as required by rules adopted by the director pursuant to chapter 91.”

SECTION 12. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-24 **Additional requirements for lien payment trusts.** (a) If a lien payment trust is established to meet the requirements of section 514E-19, then in addition to the requirements of section 514E-22, the trust instrument shall:

- (1) Require the deposit into trust of a lien payment deposit meeting the requirements of section 514E-25, before closing the sale of the first time share interest;
- (2) Require the deposit into trust before closing the sale of the first time share interest, and the retention for the duration of the trust, of an installment payment reserve consisting of funds in an amount at all times sufficient:
  - (A) To pay the total of three successive monthly installments of debt service on the blanket lien(s); provided if the developer complies with subsection (c) of section 514E-25, the amount paid shall be a prorata share of the amount required above, determined in accordance with subsection 514E-25(c).
    - (i) If installments of debt service are due less frequently than monthly, the funds retained in trust shall be sufficient to pay all installments becoming due within the next succeeding six months, the next installment due.
    - (ii) If the payments of debt service are not payable in equal installments, such additional funds shall be retained in the trust as the director shall determine to be reasonably necessary to assure that the trustee will have sufficient cash to pay any installments under the blanket liens when due.
  - (B) To create a sinking fund to extinguish the debt at its maturity if a blanket lien against the trust property is an interest-only loan, contains a balloon payment provision, or is otherwise not fully amortized under the terms for repayment.
- (3) Authorize the trustee to sell, transfer, hypothecate, encumber, or otherwise dispose of the purchase money contracts or other assets composing the lien payment deposit or any portion thereof, if in the trustee's judg-

ment, such action is necessary in order to enable the trustee to make all payments required to be made under the blanket liens so as to prevent any foreclosure thereof.

- (4) Require the developer to replenish the funds and assets in the trust whenever the lien payment deposit or the funds in the installment payment reserve fail to meet the requirements set forth in this section.
- (5) Provide that the trustee periodically shall disburse funds in the trust as follows: first, to the payment of real property taxes, governmental assessments, and lease rent, if any; second, to the payment of current payments then due on the blanket liens, in their order of priority; third, to any sinking fund established for the payment of blanket liens, including any prepayment penalties and release prices; fourth, to any service charges and costs payable to the trustee and its collection agent, if any, pursuant to the trust instrument; and fifth, to the developer or as directed by the developer.
- (6) Contain any other provisions required by the director as provided by rules adopted pursuant to chapter 91.
- (b) If a lien payment trust is established to meet the requirements of section 514E-19, every purchase money contract must contain the following provision in at least ten point bold face type:

**NOTICE**

**Immediately upon demand by the trustee under the lien payment trust for the time share plan, the holder of this document must promptly deliver to the trustee all payments made by the purchaser after the trustee mails or otherwise sends notice that the funds and other assets in the trust are inadequate to meet the requirements for the lien payment deposit. The holder must continue to send the trustee the purchaser's payments until the lien payment deposit is replenished."**

SECTION 13. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**"§514E-25 Lien payment deposit.** (a) The lien payment deposit shall consist of either (i) nondelinquent purchase money contracts from purchasers of time share interests in the time share plan or (ii) other assets deposited into trust by the developer and approved by the director.

- (b) (1) The purchase money contracts must have an aggregate remaining principal balance of not less than, and any other assets deposited must have a liquidated value of not less than, one hundred ten percent of the difference between (i) the aggregate remaining principal balance owing under blanket liens against the time share unit or time share interests in it, including any prepayment penalties, release prices, and similar charges, (ii) the amount of money, or its equivalent, in the trust and available at any time to be applied to the reduction of the principal balance of the blanket lien. The developer shall have the burden of establishing to the satisfaction of the director the liquidated value of assets other than purchase money contracts from purchasers in the time share plan.

- (2) If the blanket lien payment deposit consists of purchase money

contracts, the payments required to be made by purchasers under the contracts shall:

- (A) Be due on or before the dates on which payments become due on the blanket liens;
  - (B) If paid when due, be equal to at least one hundred ten per cent of the amount required to be paid on the blanket liens on such date; and
  - (C) Be sufficient to pay, in full, during the term of such contracts (i) all amounts secured by the blanket liens, including prepayment penalties and release prices, if any; and (ii) all service charges payable to the trustee, any collection agent, and any other servicing agent pursuant to the trust instrument.
- (3) If the developer proposes to deposit into trust assets other than purchase money contracts, such assets must be sufficient to pay debt service installments on the blanket lien as they become due and to create a sinking fund or other arrangement adequate to extinguish the debt secured by the blanket lien at its maturity.
- (c) (1) In lieu of the requirements of subsection (b), the developer may elect to follow the requirements of paragraphs (2), (3), (4), and (5) of this subsection (c) if the following requirements are met:
- (A) The developer owns or leases under a lease for a term of not less than thirty years all the noncommercial portions of a hotel, condominium, cooperative, or other project;
  - (B) No more than seventy-five per cent of the appraised value of the project is subject to a mortgage or other lien. The appraised value shall be based on the use of the project prior to the creation of the time share plan; and
  - (C) (i) As security for the obligations of the developer to the owners, the developer executes and records a mortgage in favor of the trustee under the lien payment trust or the association, in either case as trustee on behalf of the owners, twenty-five per cent of the appraised value of the project; or  
(ii) The developer conveys or transfers the project to a trust meeting the requirements of sections 514E-22 and 23, and under the terms of the trust instrument the twenty-five per cent of the beneficial interest in the trust is held for the benefit of, or conveyed or transferred to, the association, acting as trustee for the owners, as security for the obligations of the developer to owners.
  - (D) The developer files a verified statement of the program of financing acceptable to the director containing a cash flow analysis showing that the developer has adequate funds to pay the debt service installments on the blanket liens on the project during the sales period and to extinguish the debt secured by the blanket lien at its maturity, whether from sales proceeds, loan commitments, income from operations of the project, or other sources.

- (2) The purchase money contracts must have an aggregate remaining principal balance of not less than, and any other assets deposited must have a liquidated value of not less than, one hundred ten per cent of the difference between (i) a pro rata share of the aggregate remaining principal balance owing under blanket liens against the time share unit or time share interests in it, including any prepayment penalties, release prices and similar charges, (ii) a pro rata share of the amount of money, or its equivalent, in the trust and available at any time to be applied to the reduction of the principal balance of the blanket lien. The developer shall have the burden of establishing to the satisfaction of the director the liquidated value of assets other than purchase money contracts from purchasers in the time share plan.
  - (3) If the blanket lien payment deposit consists of purchase money contracts, the payments required to be made by purchasers under the contracts must:
    - (A) Be due on or before the dates on which payments become due on the blanket liens;
    - (B) If paid when due, be equal to at least one hundred ten per cent of a pro rata share of the amount required to be paid on the blanket liens on such date; and
    - (C) Be sufficient to pay, in full, during the term of such contracts (i) a pro rata share of all amounts secured by the blanket liens, including prepayment penalties and release prices, if any; and (ii) all service charges payable to the trustee, any collection agent, and any other servicing agent pursuant to the trust instrument.
  - (4) If the developer proposes to deposit into trust assets other than purchase money contracts, such assets must be sufficient to pay a pro rata share of the debt service installments on the blanket lien as they become due and to create a sinking fund or other arrangement adequate to extinguish the debt secured by the blanket lien at its maturity.
  - (5) For purposes of this subsection (c), the term "pro rata share" means a share proportionate to the ratio that the number of time share units in which the sale of time share interests have been closed bears to the total number of time share units in the project. No more than fifty-one weeks of use annually may be attributed to each time share unit in determining the pro rata share.
  - (6) The developer may elect to terminate the use of the provisions of this subsection (c) upon satisfying all of the requirements of either subsection (b) of this section 514E-25 or subsection (c) of section 514E-26.
- (d) For purposes of this section, a purchase money contract is deemed delinquent when an installment payment is more than fifty-nine days past due."

SECTION 14. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**“§514E-26 Termination of a trust.** (a) In the case of a time share use plan, the trust for the time share units shall be irrevocable during the time that any owner of a time share interest has a right to the occupancy of a time share unit, except as provided in subsection (c) of this section.

(b) In a time share ownership plan, the trust for a time share unit shall be irrevocable until all blanket liens are extinguished, except as provided in subsection (c) of this section.

(c) The developer may elect to terminate the use of a trust for a time share unit if, at a later date,

- (1) The trustee records a notice of time share plan after the recording of either:
  - (A) Nondisturbance agreements executed by every lienholder who has a blanket lien against the time share unit, or
  - (B) The director's acceptance of a surety bond or irrevocable letter of credit for that unit; or
- (2) The director approves alternative arrangements which permit the termination of the trust.”

SECTION 15. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**“§514E-27 Alternative arrangements for purchaser protection.** (a) In recognition of the impossibility or impracticability of a proposed time share plan satisfying some of the requirements of section 514E-19 because of factors over which the developer has little or no control, the director may accept arrangements, other than those prescribed by section 514E-19, which in the judgment of the director will give rights and remedies affording equivalent benefits and protections to time share owners which are at least comparable in scope though not necessarily in nature to those designed to be afforded by said section.

(b) Whenever the director is asked to accept alternative arrangements pursuant to this section, the director may contract with an attorney or attorneys and may contract with any other private consultants which the director or the attorney deems necessary or advisable, in connection with the review of the proposed arrangements for protecting purchasers. Such attorney shall be asked to thoroughly review the time share plan for the purpose of examining the purchaser protections, including the documentation used in connection therewith and the disclosure thereof in the developer's disclosure statement. Upon completing the review, the attorney shall provide a written analysis of the proposal and an opinion as to the nature and extent of the protections which the proposal affords purchasers against blanket liens. The cost of retaining such attorneys and other consultants shall be borne by the developer.”

SECTION 16. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

**“§514E-28 Requirements for surety bonds and letters of credit.** Any surety bond or irrevocable letter of credit furnished to the director pursuant to section 514E-19 must be in an amount which is not less than one hundred ten per cent of the remaining principal balance of every indebtedness secured by a blanket lien related to the time share unit. Any such bond must be issued by a surety authorized to do

business in the State and having sufficient net worth to be acceptable to the director. Any such letter of credit must be irrevocable and must be drawn upon a bank, savings and loan association, or other financial institution authorized to do business in the State and having a sufficient net worth to be acceptable to the director. The bond or irrevocable letter of credit shall provide for payment (up to the limit of such bond or letter of credit) of all amounts secured by the blanket lien, including costs, expenses, and legal fees of the lienholder, if for any reason the blanket lien is enforced. The beneficiary of any such letter of credit and the obligee of any such bond shall be the director on behalf of the owners. The bond or irrevocable letter of credit may be reduced periodically in proportion to the reduction of the remaining principal balance of the indebtedness secured by the blanket liens. Upon being furnished with a surety bond or irrevocable letter of credit satisfying the foregoing requirements, the developer shall prepare and the director shall execute and acknowledge a document in recordable form accepting such surety bond or irrevocable letter of credit and identifying the time share units to which it applies.”

SECTION 17. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-29 Association. All time share plans shall have an association which shall be a nonprofit corporation. Each owner shall be a member of the association.”

SECTION 18. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“§514E-30 Scope of this Act. This chapter applies to the offer and sale in Hawaii of time share interests in time share units located in Hawaii. If time share units are located outside of Hawaii, but any offer or sale is made within the State, this chapter, except for sections 514E-3, 4, 5, 6, 7, and 14, shall apply. As to the offer and sale outside of Hawaii of time share interest in a time share plan which includes time share units located in Hawaii, this chapter, except for sections 514E-2.5, 10(b) and (c), 11, and 11.1 shall apply.”

SECTION 19. Statutory material to be repealed is bracketed. New material is underscored. The revisor of statutes may renumber sections and subsections in this Act and in chapter 514E.<sup>1</sup>

SECTION 20. This Act shall take effect on September 1, 1982, as to all time share plans filed on or after that date.

SECTION 21. Time share plans which were registered prior to September 1, 1982 shall comply with this Act not later than January 1, 1983.

(Approved June 9, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 487A-1, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~§487A-1~~]]~~ **Plain language in consumer transactions.** (a) Every written agreement entered into on or after July 1, 1981:

- (1) To which a consumer is a party, which involves less than \$25,000, and which is the subject of a transaction for personal, family, or household purpose; or
- (2) Which is [for the] a lease of space to be occupied for residential purposes[,] for a term not exceeding five years,

shall be written in a clear and coherent manner using words with common and everyday meanings, and appropriately divided and captioned by its various sections.

(b) Any creditor, seller, or lessor who fails to comply with this chapter shall be liable in an amount equal to any actual damages sustained by a suing party or a class in a class action, plus a penalty of [fifty dollars.] \$50. The total class action penalty against any creditor, seller, or lessor shall not exceed \$10,000 in any class action or series of class actions arising out of the use by a creditor, seller, or lessor of an agreement which fails to comply with this chapter. No right of recovery shall exist for any class by way of a class action, pursuant to this section, on any written agreement executed prior to July 1, 1986.

(c) No action under this chapter may be brought after both parties to the agreement have fully performed their obligations under such agreement, nor shall any creditor, seller, or lessor who attempts in good faith to comply with this chapter be liable for such penalties.

[~~(d) This chapter shall not prohibit the use of words or phrases or form of agreement required by state or federal law, rule or regulation.~~]

~~(d) The provisions of this chapter shall not apply:~~

- ~~(1) To wills or trusts other than land trusts created under the Land Trust Act, chapter 558;~~
- ~~(2) To any document, which is not itself a written agreement subject to this chapter, by virtue of the document being referred to or incorporated within a written agreement which is subject to this chapter, provided that the document has an independent purpose of its own;~~
- ~~(3) To a legal description of real property; or~~
- ~~(4) To words or phrases or form of agreement required, authorized, or approved by state or federal law, rule, regulation, governmental agency, or instrumentality.~~
- ~~(e) A written agreement involves less than \$25,000 if it provides for:~~
  - ~~(1) The sale of property in which the full sales price including any debt assumed is less than \$25,000;~~
  - ~~(2) Services and the total payments are less than \$25,000 over the term of the agreement, or if no term is specified, within one year from the date of the agreement;~~
  - ~~(3) A loan or advance of credit which is of a principal amount less than \$25,000;~~
  - ~~(4) A lease for which the total rent to be paid during the term of the lease, not~~

including any option or extension periods, is less than \$25,000. In computing the total rent to be paid, the highest amount of fixed rent shall be assumed to apply during any period in the term for which the rent is not fixed; or

- (5) Any two or more of the above transactions and the total amount of the price, payments, principal and rent provided for in the agreement is less than \$25,000."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 9, 1982.)

ACT 188

H.B. NO. 2161-82

A Bill for an Act Relating to Private Trade, Vocational and Technical Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 300-41, Hawaii Revised Statutes, is amended to read:

**"§300-41 Private trade, vocational, or technical school, defined.** A private trade, vocational, or technical school, as contemplated by this part shall be any plan or method used by any person or persons, firm, or any other organization or corporation for giving instruction in any form or manner in any trade, occupation, or vocation for a consideration, reward, or promise of whatever nature, including correspondence schools located within the State, except as follows:

- (1) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged.
- (2) Courses of instruction given by any fraternal society, benevolent order, or professional organization to its members which courses are not operated for profit.
- (3) Flying schools qualified under the Civil Aeronautics Administration.
- (4) Classes conducted for less than five students at one and the same time.
- (5) Classes or courses of instruction which are conducted for twenty or less class sessions during any twelve month period.
- (6) Avocational, hobby, recreation, or health class or course.
- (7) Courses of instruction on religious subjects given under the auspices of a religious organization.
- (8) Schools registered by the department of regulatory agencies or by boards and commissions placed in the department for administrative purposes.

The department of education may at its discretion regulate the above excepted schools and classes."

SECTION 2. New material is underscored.

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

(Approved June 9, 1982.)



## ACT 189

H.B. NO. 2206-82

A Bill for an Act Relating to General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-4, Hawaii Revised Statutes, is amended to read:  
 “§237-4 “Wholesaler”, “jobber”, defined. “Wholesaler” or “jobber” applies only to a person making sales at wholesale. Only the following are sales at wholesale:

- (1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
- (2) Sales to a licensed manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer;
- (3) Sales to a licensed contractor, of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses;
- (4) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to such producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section or for the purpose of breeding, hatching, milking, or egg laying other than for the customer’s own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by him as part to be butchered or to a cooperative association described in section 237-23(a)(9) of such licensed producers shall be deemed to be a sale at wholesale; and provided further that any amount derived from the furnishing of feed lot services, other than the segregated cost of feed, shall be deemed taxable at the service business rate. This paragraph (4) shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;
- (5) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to the producer, of seed for producing agricultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural products or fish are to be disposed of as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section;
- (6) Sales to a licensed producer, or to a cooperative association described in

section 237-23(a)(9) for sale to such producer; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2) of this section;

- (7) Sales of tangible personal property to a licensed person engaged in the service business, provided that (1) the property is not consumed or incidental to the performance of the services; (2) there is a resale of the article at the retail rate of four per cent; and (3) the resale of the article is separately charged or billed by the person rendering the services;
- (8) Sales to a licensed leasing company of capital goods which [leases capital goods] are thereafter leased as a service to others. [As used in this paragraph capital goods are goods which have a depreciable life of more than three years.] Capital goods means goods which have a depreciable life and which are purchased by the leasing company for lease to its customers.

If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining "wholesaler" or "jobber"): "Wholesaler" or "jobber" means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service which buys and maintains at his or its place of business a stock or lines of merchandise which he or it distributes; and which, through salesmen, advertising, or sales promotion devices, sells to licensed retailers, to institutional or licensed commercial or industrial users, in wholesale quantities and at wholesale rates. A corporation deemed not to be carrying on a trade or business in this State under section 235-6 shall nevertheless be deemed to be a wholesaler and shall be subject to the tax imposed by this chapter."

SECTION 2. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 237-4, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act upon its approval shall apply to taxable years beginning after December 31, 1982.

(Approved June 9, 1982.)

A Bill for an Act Relating to Civil Liability in Motor Vehicle Accident Reparations.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to emphasize that the criminal and civil liability of a person subject to section 294-6(d), Hawaii Revised Statutes, shall not be limited in any manner. Recently, the Third Circuit Court has ruled that a person subject to subsection (d) shall not be liable for general damages. The legislature, however, intends that there be no limitation to civil liability, and thus, should include special and general damages.

SECTION 2. Section 294-6, Hawaii Revised Statutes, is amended to read as follows:

**“§294-6 Abolition of tort liability.** (a) Tort liability of the owner, operator or user of an insured motor vehicle, or the operator or user of an uninsured motor vehicle who operates or uses such vehicle without reason to believe it to be an uninsured motor vehicle, with respect to accidental harm arising from motor vehicle accidents occurring in this State, is abolished, except as to the following persons or their personal representatives, or legal guardians, and in the following circumstances:

- (1) Death occurs to such person in such a motor vehicle accident; or injury occurs to such person which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body; or injury occurs to such person which consists of a permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering;
- (2) Injury occurs to such person in a motor vehicle accident in which the amount paid or accrued exceeds the medical-rehabilitative limit established in section 294-10(b) for expenses provided in section 294-2(10)(A) and (B);
- (3) Injury occurs to such person in such an accident and as a result of such injury the aggregate limit of no-fault benefits outlined in section 294-2(10) payable to such person are exhausted.

(b) No claim may be made for benefits under the uninsured motorist coverage by an injured person against an insurer who has paid or is liable to pay no-fault benefits to such injured person unless such claim meets the requirements of the foregoing section (a)(1), (2) or (3).

(c) No provision of this chapter shall be construed to exonerate, or in any manner to limit, the liability of any person in the business of manufacturing, retailing, repairing, servicing, or otherwise maintaining motor vehicles, arising from a defect in a motor vehicle caused, or not corrected, by an act or omission in the manufacturing, retailing, repairing, servicing, or other maintenance of a vehicle in the course of his business.

(d) No provision of this section shall be construed to exonerate, or in any manner to limit the criminal or civil liability, including special and general damages, of any person who, in the maintenance, operation, or use of any motor vehicle;

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- (1) Intentionally causes injury or damage to a person or property; or
  - (2) Engages in criminal conduct which causes injury or damage to person or property; or
  - (3) Engages in conduct resulting in punitive or exemplary damages.
- (e) No provision of this section shall be construed to abolish tort liability with respect to property damage arising from motor vehicle accidents.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1982.)

ACT 191

H.B. NO. 2888-82

A Bill for an Act Relating to Time Sharing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514E-5, Hawaii Revised Statutes, is amended to read as follows:

“§514E-5 Geographic limitations. Except as provided in this section, time share units, time share plans, and transient vacation rentals are prohibited.

- (1) Existing time share units, time share plans, and transient vacation rentals are not impaired by the provisions of this section.
- (2) Time share units, time share plans, and transient vacation rentals are allowed:

[(A) In hotels, or

(B) Where] (A) In areas designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use[.]; or

(B) In a hotel where the county explicitly approves such use, in advance, as a nonconforming use.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 9, 1982.)

ACT 192

S.B. NO. 1925

A Bill for an Act Relating to Employer-Employee Relationships.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

“§383-7 Excluded service. “Employment” does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit:
  - (A) Which, during each calendar quarter in both the current and the preceding calendar years, paid less than \$20,000 in cash remuneration to individuals employed in agricultural labor; and
  - (B) Which had, in each of the current and the preceding calendar years:
    - (i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees; or
    - (ii) No more than nine individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid to such individual by an employing unit for such service is less than \$225, and if the total cash remuneration paid to all individuals by an employing unit for such service is less than \$1,000 in each calendar quarter in both the current and preceding calendar years;
- (3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs such service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employing unit in the performance of such service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (i) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (ii) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels

- under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year, and (iii) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
  - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;
  - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
  - (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
  - (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of such Code), if (i) the remuneration for such service is less than \$50, or (ii) the service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
  - (B) Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regu-

- larly attending classes at such school, college, or university;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
  - (11) Service performed in the employ of an instrumentality wholly owned by a foreign government:
    - (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
    - (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
  - (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four [years'] years course in a medical school chartered or approved pursuant to state law;
  - (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
  - (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
  - (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
  - (17) Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission[.];
  - (18) Service performed by a registered sales representative for a registered travel agency, when such service performed by the individual for the travel agent is performed for remuneration by way of commission.

None of the foregoing exclusions (1) to [(17)] (18) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a

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tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 10, 1982.)

**ACT 193**

S.B. NO. 2527-82

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-2, Hawaii Revised Statutes, is amended to read as follows:

“§386-2 **Definitions relating to family relationships.** “Child” includes a posthumous child, adopted child, stepchild, [and] illegitimate child and hanai child acknowledged prior to the personal injury.

“Brother” or “sister” includes a half brother or half sister, a stepbrother or stepsister, and a brother or sister by adoption.

“Grandchild” includes a child of an adopted child and a child of a stepchild, but does not include a stepchild of a child.

“Parent” includes a stepparent or a parent by adoption.

“Grandparent” includes a parent of a parent by adoption, but does not include a parent of a stepparent, a stepparent of a parent, or a stepparent of a stepparent.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 10, 1982.)

**ACT 194**

S.B. NO. 2531-82

A Bill for an Act Relating to Employer-Employee Relationships.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that under an employee-employer relationship, federal and state laws require an employer to provide employees with various employee-related benefits. In the case of a vacuum cleaner distributor and its dealers, however, the Internal Revenue Service has recently ruled that no employee-employer relationship exists. In view of this ruling, the legislature finds that state laws relating to employee benefits of vacuum cleaner dealers should be amended to reflect the recent ruling.



The purpose of this Act is to enact such amendments.

SECTION 2. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

“§383-7 Excluded service. “Employment” does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit:
  - (A) Which, during each calendar quarter in both the current and the preceding calendar years, paid less than \$20,000 in cash remuneration to individuals employed in agricultural labor; and
  - (B) Which had, in each of the current and the preceding calendar years:
    - (i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees; or
    - (ii) No more than nine individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid to such individual by an employing unit for such service is less than \$225, and if the total cash remuneration paid to all individuals by an employing unit for such service is less than \$1,000 in each calendar quarter in both the current and preceding calendar years;
- (3) Service not in the course of the employing unit’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit’s trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs such service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employing unit in the performance of such service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
  - (B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (i) the service performed in connection with a vessel

of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (ii) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year, and (iii) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;

- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
- (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;
- (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
- (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
- (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of such Code), if (i) the remuneration for such service is less than \$50, or (ii) the service

- is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
- (B) Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
- (11) Service performed in the employ of an instrumentality wholly owned by a foreign government:
- (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
- (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
- (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
- (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
- (17) Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission[.];

(18) Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission.

None of the foregoing exclusions (1) to ~~[(17)]~~ (18) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.”

SECTION 4.<sup>1</sup> Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

“§392-5 Excluded services. “Employment” as defined in section 392-3 does not include the following service:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer’s trade or business during the calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs the service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employer in the performance of the service during the preceding calendar quarter;
- (3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in his employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not

- the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
  - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter[.];
  - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
  - (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
  - (9) Service performed in any calendar quarter in the employ of any non-profit organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such service is less than \$50, or (B) the service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (C) the service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of non-secular duties required by the order, or (D) the service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
  - (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if (A) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) eighty-five [percent] per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
  - (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if (A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and (B) no part of the net earnings of the association inures (other than through such payments) to the benefit of

- any private shareholder or individual;
- (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1954, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;
  - (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if: (A) the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and (B) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
  - (14) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
  - (15) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
  - (16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
  - (18) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
  - (19) Domestic, which includes attendant care, and day care services authorized by the department of social services and housing under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments[.];
  - (20) Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 10, 1982.)

**Note**

1. Should be "3".

**ACT 195**

H.B. NO. 1971-82

A Bill for an Act Relating to Hawaiian Affairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to promote the effective management of Hawaiian Affairs.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$540,785, or so much thereof as may be necessary for fiscal year 1982-1983, to carry out the purposes of this Act, including the funding of up to 34 positions, a protocol fund of \$5,000, and the conduct of a needs assessment survey as proposed by the agency.

SECTION 3. The sum appropriated shall be expended by the Office of Hawaiian Affairs.

SECTION 4. The appropriation made in Section 2 of this Act shall be matched on a one-to-one basis by the Office of Hawaiian Affairs.

SECTION 5. This Act shall take effect on July 1, 1982.

(Approved June 10, 1982.)

**ACT 196**

H.B. NO. 2166-82

A Bill for an Act Relating to County/State Hospital System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§27- Patient trust fund. Patient funds received by the county/state hospitals may be deposited outside the state treasury."

SECTION 2. New material is underscored.<sup>1</sup>

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

(Approved June 10, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 197**

H.B. NO. 2177-82

A Bill for an Act Relating to Forest and Water Reserve Zones.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183-41, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

“(e) Enforcement. The department shall prescribe such administrative procedures and provide such personnel as it may deem necessary for the enforcement of this section, and any zoning regulation enacted in accordance therewith. Such regulations may be enforced by court order at the suit of the department or of the owner or owners of real estate directly affected by the regulation. Any person violating this section or any regulation adopted in accordance with this section shall be fined no more than \$500[.] in addition to administrative costs and damages to state land. After written notification from the department, wilful violation of this section may incur an additional fine of up to \$500 per day for each day in which such violation persists.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 10, 1982.)

ACT 198

H.B. NO. 2332-82

A Bill for an Act Relating to Public Land Leases for Agricultural Use.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-37, Hawaii Revised Statutes, is amended to read:

“**§171-37 Lease restrictions; intensive agricultural and pasture uses.** In addition to the restrictions provided in section 171-36, the following restrictions shall apply to all leases for intensive agricultural and pasture uses:

- (1) The lease term shall [not exceed] be not less than fifteen years nor more than thirty-five years, except that if the type of disposition requires the lessee to occupy the premises as his own personal residence, it may be longer than thirty-five years, but not in excess of seventy-five years, and except in the case of a tree-crop orchard lease the term of which shall not be in excess of forty-five years.
- (2) If the land being leased is not immediately productive and requires extensive expenditures for clearing, conditioning of the soil, the securing of water, the planting of grasses, or the construction of improvements, as the result of which a longer term is necessary to amortize the lessee's investment, then the lease term may be longer than thirty-five years, but not in excess of fifty-five years.
- (3) The land leased hereunder, or any portion thereof, shall be subject to withdrawal by the board of land and natural resources at any time during the term of the lease with reasonable notice and without compensation, except as provided herein, for public uses or purposes, including residential, commercial, industrial, or resort developments, for constructing new roads or extensions, or changes in line or grade of



existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the board to remove soil, rock, or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided[, ] that upon the withdrawal, or upon the taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of the lease; provided further[, ] that no withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the board pays to the lessee the value of the crops. In the case of tree crops, the board shall pay to the lessee the residual value of the trees taken and, if there are unharvested crops, the value of the crops also.

“Tree-crop”, as used in this section, shall be exclusive of papaya and banana.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 10, 1982.)

## ACT 199

H.B. NO. 2241-82

A Bill for an Act Relating to Recovery of Money Owed to the State.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new grouping to be appropriately designated and to read as follows:

### “RECOVERY OF MONEY OWED TO THE STATE

§231- Purpose. The purpose of sections 231- to 231- is to permit the retention of state income tax refunds for those persons owing a debt to the State.

§231- Definitions. As used in sections 231- to 231- , unless the context otherwise requires:

- (1) “Claimant agency” includes any state agency, board, commission, department, institution, or other state organization, or any subdivision thereof.
- (2) “Debt” includes any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order.
- (3) “Debtor” includes any person owing a debt to any claimant agency.
- (4) “Refund” includes any state income tax refund which is or will be due

any debtor, or any other sums due to a debtor from the State.

**§231- Setoff against refund.** The State, through the department of accounting and general services, upon request of a claimant agency, shall set off any valid debt due and owing a claimant agency by the debtor against any debtor's refund. Any amount of the refund in excess of the amount retained to satisfy the debt shall be refunded to the debtor.

**§231- Hearings; appeals.** At the time a setoff is identified, the debtor shall be notified by the comptroller, department of accounting and general services, of the State's intention to apply the debtor's debt against the refund. The notice shall state that the debtor within thirty days may request a hearing before the claimant agency to contest the setoff. No issues that have been previously litigated shall be considered at the hearing. Appeals from the hearing allowed under this section shall be in accordance with chapter 91.

**§231- Finalization of setoff; credit on debt.** Upon completion of the hearing and appeal process set out in section 231- , or upon the debtor's failure to timely request a hearing pursuant to that section, the setoff shall become final. The amount of the setoff after deduction of any charge authorized by section 231- shall be credited by the claimant agency against the debtor's debt.

**§231- Charges for setoff; credit to agency.** The State may charge the claimant agency for the cost of the setoff; provided that the charges shall not exceed the proceeds of the collection. The State may designate a single percentage to be retained from the proceeds of the setoff as a charge for cost of assistance. The net proceeds of a setoff, after deduction of any charge, shall be credited to the claimant agency's account or fund.

**§231- Apportionment of joint refunds.** In the case of a setoff against a joint income tax refund, the State may make separate refunds of withheld taxes upon request by a husband or wife who has filed the joint return. The refund payable to each spouse shall be proportioned to the gross earnings of each shown by the information returns filed by the employer or otherwise shown to the satisfaction of the State.

**§231- Rules.** All state agencies may adopt rules pursuant to chapter 91 for carrying out the purposes of sections 231- to 231- .

**§231- Procedure additional.** The setoff procedure authorized by sections 231- to 231- is in addition to and not in substitution of any other remedy available by law."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 10, 1982.)

ACT 200

S.B. NO. 2682-82

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334E-2, Hawaii Revised Statutes, is amended to read as follows:

**“§334E-2 Rights of in-patients.** (a) Any patient in a [licensed] psychiatric facility [may] shall be afforded [the following rights, as provided by the institution. All such rights of in-patients are to be qualified by reasonableness, in view of the circumstances and the availability of resources and are to include but not be limited to the following:] rights; and any psychiatric facility shall provide the rights to all patients; provided that when a patient is not able to exercise the patient’s rights, the patient’s legal guardian or legal representative shall have the authority to exercise the same on behalf of the patient. The rights shall include, but not be limited to, the following:

- (1) Access to written rules and regulations with which the patient is expected to comply;
- (2) Access to the facility’s grievance procedure[;] or to the department of health as provided in section 334-3;
- (3) Freedom from reprisal;
- [(3)] (4) Privacy, respect, and personal dignity;
- [(4)] (5) A humane environment;
- [(5)] (6) Freedom from discriminatory treatment based on race, color, creed, national origin, age, and sex;
- [(6)] Uncensored communication;]
- (7) A written treatment plan based on the individual patient;
- (8) Participation in the planning of the patient’s treatment plan;
- (9) Refusal of treatment except in emergency situations or where a court order exists;
- (10) Refusal to participate in experimentation;
- [(7)] (11) The choice of physician if the physician chosen agrees;
- [(8)] Appropriate treatment and care;
- (9) (12) A qualified, competent staff;
- [(10)] (13) A medical examination before initiation of non-emergency treatment;
- [(11)] Participation in the treatment plan;]
- (14) Confidentiality of the patient’s records;
- (15) Access to the patient’s records;
- [(12)] (16) Knowledge of rights withheld or removed by a court or by law;
- [(13)] (17) Physical exercise and recreation;
- [(14)] (18) Adequate diet;
- [(15)] (19) Knowledge of the names and titles of staff members with whom the patient has frequent contact;
- [(16)] (20) The right to work at the facility and fair compensation for work done; provided that work is available and it is part of the patient’s treatment plan;
- (21) Visitation rights, unless the patient poses a danger to self or others; provided that where visitation is prohibited, the legal guardian or legal representative shall be allowed to visit the patient upon request;
- (22) Uncensored communication;
- [(17)] (23) Notice of and reasons for an impending transfer;
- [(18)] (24) Freedom from seclusion or restraint, except:
  - (A) When necessary to prevent injury to self or others; or

- (B) When part of the treatment plan; or
- (C) When necessary to preserve the rights of other patients or staff;
- [(19)] (25) Disclosure to a court, at an involuntary civil commitment hearing, of all treatment procedures which have been administered prior to the hearing;
- [(20)] (26) Receipt by the patient and his guardian[,] or legal guardian, if he has one, of this enunciation of rights[,] at the time of admission.

(b) All the rights of in-patients are to be qualified by reasonableness in view of the circumstances.

(c) The department of health shall investigate any complaints brought to them concerning this section, except as provided in subsection (d). The department shall report in writing its findings and recommendation to the originator of the complaint, no later than thirty days from the date the complaint is submitted.

(d) The office of the ombudsman shall be responsible for all investigations of complaints against any public psychiatric facility, as provided under chapter 96."

SECTION 2. Section 334-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department shall:

- (1) Establish standards and regulations for and license psychiatric facilities;
- (2) Evaluate preventive and treatment services in the field of mental health within the State;
- (3) Promote and conduct research, demonstration projects, and studies concerned with the nature, treatment, and consequences, of mental illness, drug addiction, and alcoholism within the State;
- (4) Cooperate with public and private groups, agencies, and institutions in establishing coordinated services to meet the mental health needs of the people;
- (5) Keep records, statistical data, and other information as may be necessary in carrying out the functions of the mental health program and the provisions of this chapter[.]; and
- (6) Advocate patients' rights in all psychiatric facilities in the State and investigate any grievances submitted to them by any patient in a psychiatric facility, except as provided in section 334E-2(d). The department shall establish rules and procedures for the purpose of this subsection within one year of the enactment of this subsection and post the rules in a conspicuous manner and accessible place."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 10, 1982.)

A Bill for an Act Relating to the Department of Health.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . AGENT ORANGE**

**§321- Definitions.** Whenever used in this part, unless the context otherwise requires:

“Agent orange” means the herbicide composed primarily of trichlorophenoxyacetic acid and dischlorophenoxyacetic acid.

“Exposed resident” means a person who is a resident of this State who was in Vietnam, Cambodia, or Laos during the Vietnam conflict for whatever reason.

“Veteran” means a person who is a resident of this State who served in Vietnam, Cambodia, or Laos during the Vietnam conflict.

**§321- Department to administer part.** Except as otherwise provided in section 321- , the department of health is designated as the agency of the State to carry out the activities and perform the functions provided in this part.

**§321- Reports to the department.** (a) A physician who has primary responsibility for treating a veteran or exposed resident who believes the veteran or exposed resident may have been exposed to chemical defoliants, herbicides, or other causative agents, including agent orange, at the request of the veteran or exposed resident, shall submit a report to the department of health on a form provided by the department. If there is no physician having primary responsibility for treating the veteran or exposed resident, the hospital treating the veteran or exposed resident, at the request of the veteran or exposed resident, shall submit the report to the department.

(b) The form provided by the department to the physician shall provide for nondisclosure of the identity of the veteran or exposed resident and shall require the following information:

- (1) Symptoms of the veteran or exposed resident which may be related to exposure to a chemical defoliant, herbicide, or other causative agent, including agent orange;
- (2) Diagnosis of the veteran or exposed resident; and
- (3) Methods of treatment prescribed.

(c) The department may require the veteran or exposed resident to provide such information as necessary.

**§321- Reports by the department.** The department of health, in consultation with a certified medical toxicologist, if appropriate, shall conduct epidemiological studies on veterans or exposed residents who have cancer or other medical problems associated with exposure to a chemical defoliant, herbicide, or any other causative agent, including agent orange, or who have children born with birth defects after the veterans' or exposed residents' exposure to a chemical defoliant, herbicide, or any other causative agent, including agent orange. The department shall obtain consent from each veteran or exposed resident to be studied under this section. The department of health shall obtain current research findings on the effects of exposure to chemical defoliants, herbicides, or other causative agents, including agent orange. The department shall evaluate the information required under this section and annually prepare a report to be distributed to the legislature, the Veterans Administration, the Veteran Affairs Commission, and other veteran

groups, including but not limited to, Veterans Administration Readjustment Counseling Service (the Vet Center).

**§321- Confidentiality.** The identity of a veteran or exposed resident about whom a report has been made under section 321- or 321- shall not be disclosed unless the veteran or exposed resident consents to the disclosure; provided that statistical information collected under this part is public information.

**§321- Immunity from liability.** A physician or a hospital which complies with this part shall not be held civilly or criminally liable for providing the information required under this part.

**§321- Class action representation by attorney general.** The attorney general may represent a class of individuals composed of veterans or exposed residents who may have been injured because of contact with chemical defoliants, herbicides, or other causative agents, including agent orange, in a suit for release of information relating to exposure to such chemicals during military service, or their presence in Vietnam, Cambodia, or Laos, and for release of individual medical records.

**§321- Assistance programs.** The department and the school of public health and other medical facilities or programs of the University of Hawaii shall within the funds appropriated by the legislature institute a cooperative program to:

- (1) Refer veterans or exposed residents to appropriate state and federal agencies for the purpose of filing claims to remedy medical and financial problems caused by the veterans' or exposed residents' exposure to chemical defoliants, herbicides, or other causative agents, including agent orange.
- (2) Provide veterans or exposed residents with genetic counseling and genetic screening, including but not limited to, appropriate diagnostic procedures to determine if the veteran or exposed resident has suffered physical damage as a result of exposure to chemical defoliants, herbicides, or other causative agents, including agent orange.

**§321- Application.** Sections 321- and 321- are applicable to all cases of veterans and exposed residents treated on or after July 1, 1982, for symptoms typical of a person who has been exposed to a chemical defoliant, herbicide, or any other causative agent, including agent orange. Sections 321- and 321- are applicable to all veterans and exposed residents.

**§321- Termination of programs and duties.** If the director of health determines that an agency of the federal government is performing the referral and screening functions required by section 321- , the director may discontinue any program required by or any duty required of a physician or hospital under this part.

**§321- Adoption of rules.** The director of health shall adopt rules necessary to the administration of the programs authorized by this part pursuant to chapter 91. The rules shall include information to be provided by a physician or hospital to a veteran or exposed resident of the veterans' or exposed residents' rights under this part."

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1982-1983, to carry out the purposes of this Act. The sum appropriated by this Act shall be expended by the department of health.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 10, 1982.)

## ACT 202

H.B. NO. 2271-82

A Bill for an Act Relating to Leases of Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-43.1, Hawaii Revised Statutes, is amended to read as follows:

“**§171-43.1 Lease to eleemosynary organizations.** The board may lease, by direct negotiation and without recourse to public auction, public lands to [be used for charitable, religious or educational purposes to] an eleemosynary organization which has been certified by the director of taxation to be tax exempt under section 235-9(a)(2). The lands shall be used by such eleemosynary organization for charitable, religious, or educational purposes. If the eleemosynary organization has been chartered by the United States Congress for fraternal, patriotic, historical, and educational purposes, the lands shall be used for the purposes for which the congressional charter was issued.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 10, 1982.)

## ACT 203

S.B. NO. 2399-82

A Bill for an Act Relating to the Department of Regulatory Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

“(h) The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore constituted are transferred to the department of regulatory agencies established by this chapter. The director of regulatory agencies shall also be the [insurance commissioner and] commissioner of securities.”

SECTION 2. Section 401-1, Hawaii Revised Statutes, is amended to read as follows:

“**§401-1 [Ex officio bank examiners; deputy bank examiners.] Bank examination division, bank examiner.** [The director of regulatory agencies and the deputy director shall each be ex officio a bank examiner for the State.] (a) The director of regulatory agencies, with the approval of the governor, shall appoint a fit and competent person [as deputy bank examiner] to perform the duties of the bank examiner, who may be removed by the director with the approval of the

governor[.]; provided that while there is any vacancy in the office of the bank examiner, the director shall serve as ex officio bank examiner. The bank examiner shall not be subject to chapters 76 and 77. The [director] bank examiner may appoint one or more assistant bank examiners who may make examinations and audits, and, with the approval of the bank examiner [or his deputy], sign reports of examination or audit.

(b) The salary of the bank examiner shall be set by the director of regulatory agencies but shall not be more than the maximum salary of first deputies to department heads.

SECTION 3. Title 22, Hawaii Revised Statutes, is amended by substituting the words “bank examiner” wherever the words “director” or “director of regulatory agencies” are used to mean the director of regulatory agencies in that department head’s capacity ex officio as, or in the exercise of powers or the performance of duties analogous to those of, the bank examiner, except sections 403-7, 403-14, 405-1, 407-9, 408-2, 408-27, and 409-1, Hawaii Revised Statutes.

SECTION 4. Section 403-7, Hawaii Revised Statutes, is amended to read as follows:

**“§403-7 [“Director of regulatory agencies” defined; administration.] Administration of chapter.** [When used in this chapter, the term “director of regulatory agencies” or “director” and equivalent expressions mean the director of regulatory agencies of the State and, unless the context otherwise indicates or requires, include the terms “bank examiner”, “examiner”, “deputy examiner”, “deputy bank examiner”, “conservator”, or any other subordinate to whom the director may lawfully delegate any of the powers or duties conferred or imposed upon him by this chapter. These terms when necessary to effectuate the full administration of this chapter shall have a similar and interchangeable meaning.] The administration of this chapter shall be vested in the [director.] bank examiner.”

SECTION 5. Sections 403-14, Hawaii Revised Statutes, is amended to read as follows:

**“§403-14 [Director;] Bank examiner; examinations, powers.** The [director of regulatory agencies or his deputy or] bank examiner may examine the accounts, books, and papers of any person licensed as provided in section 403-13, and may take any action set forth in sections 403-161 and 403-162 relating to capital impairment. He shall make all necessary and appropriate rules [and regulations] governing the use of the terms “investment banker” and “investment banking” by any person and the conduct of business by such person.”

SECTION 6. Section 405-1, Hawaii Revised Statutes, is amended to read as follows:

**“§405-1 Definitions.** As used in this chapter, unless the context otherwise requires, “corporation” means a corporation organized pursuant to this chapter, [“director” means the director of regulatory agencies,] and “bank” has the meaning used in section 403-2.”

SECTION 7. Section 407-8, Hawaii Revised Statutes, is amended to read as follows:

**“§407-8 [Director; bank examiner.] Bank examiner; assistants.** [“Director”



and “bank examiner” are used interchangeably in this chapter and mean the director of regulatory agencies and bank examiner of the State.] Any duly authorized [deputy director or deputy] assistant bank examiner may perform any act in this chapter authorized or required to be performed by the [director or] bank examiner.”

SECTION 8. Section 408-2, Hawaii Revised Statutes, is amended to read as follows:

“**§408-2 Definitions.** As used in this chapter and unless a different meaning appears from the context:

“Company” means any person, firm, partnership, corporation, and unincorporated association to which this chapter is applicable and includes any foreign corporation doing business in the State;

[“Director” means the director of regulatory agencies;]

“Bank examiner” [includes the deputy] means the bank examiner of the State [appointed under section 401-1];

“Industrial loan company” means any person, firm, partnership, corporation, and unincorporated association organized or which may hereafter be organized, and which is engaged in or may hereafter be engaged in the lending of money to be repaid weekly, monthly, or other periodic installments of principal sums as a business; provided[,] that this definition shall not be construed to include banks, trust companies, building and loan associations, or mortgage companies whose principal business consists of loans for the purchase of homes (if investment certificates issued by the mortgage companies are secured by mortgage and if the appraised value of the mortgaged property is thirty-three and one-third per cent in excess of the total of the certificates the mortgage secures), the credit unions, pawnbrokers, or licensees under chapter 409;

“Engaging in the business of an industrial loan company” or “carrying on the business of an industrial loan company” or “the industrial loan business” or any other term of similar import, means and includes the loaning of money to be repaid in weekly, monthly, or other periodical installments of principal sums, and the charging, receiving, or requiring of compensation, interest, discount, fees, or charges of whatever nature or kind for the use of the money, in excess of the charges permitted by section 478-3; provided[,] that direct financing to customers by mercantile firms or persons engaged in the mercantile business shall not be deemed engaging in the business of an industrial loan company; nor shall the loaning by an individual of his own funds be deemed engaging in such business, unless he charges, contracts for, or receives on any loan a greater rate of interest, discount, or consideration than would be permissible under section 478-3;

“Firm” means a partnership or an unincorporated association;

“Principal” or “principal amount” means the face amount of the note or other contract concerned;

“Contract” includes promissory notes;

“Affiliate” means any corporation, partnership, venture, business trust, association, or other similar organization:

- (1) Of which the industrial loan company, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty per cent

of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;

- (2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by shareholders of the industrial loan company who own or control either a majority of the shares of such company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or by the trustees for the benefit of the shareholders of any such company; or
- (3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of the industrial loan company; or
- (4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of the industrial loan company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or controls in any manner the election of a majority of the directors of such company, or for the benefit of whose shareholders all or substantially all the capital stock of such company is held by trustees.

“Person” means not only individuals but also partnerships, corporations, firms, associations, and federal, state, and municipal governments.

“Primary obligor” means a person legally bound to comply with a demand for satisfaction of any security. This definition shall include the maker or endorser of a note, the corporate issuer of stock, and the issuer of any security or of any other evidence of indebtedness.

“Open-end loan” means a loan made by a licensee under this chapter pursuant to an agreement between the licensee and the borrower whereby:

- (1) The licensee may permit the borrower to obtain advances of money to the borrower from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;
- (2) The amount of each advance and permitted interest and other charges are debited to the borrower’s open-end loan account and payments and other credits are credited to the same account;
- (3) Interest and charges are computed on the unpaid principal balance or balances of the open-end loan account from time to time; and
- (4) The borrower has the privilege of paying either the full amount of the open-end loan account or periodic installments of fixed or determinable amounts as provided in the agreement.

“Billing cycle” means the time interval between periodic billing dates. Such intervals may be considered equal intervals of time unless the billing date varies by more than four days from the regular billing date.”

SECTION 9. Section 408-27, Hawaii Revised Statutes, is amended to read as follows:

“§408-27 Not to divulge information. The [director of regulatory agencies,] bank examiner, [or his assistants, or] assistant bank examiners, and any other person appointed by the bank examiner as provided by this chapter, shall not

divulge any information acquired by them in the discharge of their duties, except insofar as the same may be rendered necessary by this chapter or any other law or under order of court in the action involving the bank examiner or in any criminal actions or proceedings; provided that any such information may be furnished to the board of directors of the Thrift Guaranty Corporation of Hawaii in response to a written request by the board.”

SECTION 10. Section 409-1, Hawaii Revised Statutes, is amended to read as follows:

“**§409-1 [Definitions.] Bank examiner.**<sup>1</sup> As used in this chapter, [“director” means the director of regulatory agencies, and “deputy bank examiner”] “bank examiner” means the [deputy] bank examiner [appointed under section 401-1.] of the State.”

SECTION 11. Chapter 409, Hawaii Revised Statutes, is amended by substituting the words “bank examiner” wherever the words “director” or “director of regulatory agencies”, or either in conjunction with “deputy bank examiner”, appear and by deleting the word “deputy” wherever the words “deputy bank examiner” appear not in conjunction with “director” or “director of regulatory agencies”.

SECTION 12. Section 431-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [The director of regulatory agencies shall be the insurance commissioner.] The insurance division is established within the department of regulatory agencies. The insurance division shall be under the supervision and control of an administrator who shall be known as the [assistant] insurance commissioner. The director of regulatory agencies shall, with the approval of the governor, appoint the [assistant] insurance commissioner[.] who shall not be subject to chapters 76 and 77. The [assistant] insurance commissioner shall hold his office at the pleasure of the director of regulatory agencies, and shall be responsible for the performance of the duties imposed upon the division.”

SECTION 13. Section 431-33, Hawaii Revised Statutes, is amended to read as follows:

“**§431-33 Salary.** [The insurance commissioner shall not receive any salary in addition to his salary as director of regulatory agencies. The salary of the assistant insurance commissioner shall be not more than \$37,500, to be set by the director of regulatory agencies.] The salary of the insurance commissioner shall be set by the director of regulatory agencies but shall not be more than the maximum salary of first deputies to department heads.”

SECTION 14. Section 435-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Definitions. For the purpose of this chapter:

- (1) “Commissioner” means the [director of regulatory agencies in his capacity as] insurance commissioner[;] of this State;
- (2) “Credit life insurance” means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transactions;
- (3) “Credit disability insurance” means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit

- transaction while the debtor is disabled as defined in the policy;
- (4) "Creditor" means the lender of money or vendor or lessor of goods, services, or property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of any such lender, vendor, or lessor, and an affiliate, associate, or subsidiary of any of them or any director, officer, or employee of any of them or any other person in any way associated with any of them;
  - (5) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction;
  - (6) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction."

SECTION 15. Section 435E-1, Hawaii Revised Statutes, is amended to read: "[~~§435E-1~~] **Definitions.** Unless the context clearly requires otherwise: ["Director" means the director of regulatory agencies.]

"Commissioner" means the insurance commissioner of this State.

"Physician" or "surgeon" means any person licensed under chapter 453; or any professional corporation, partnership, or other entity whose stockholders or partners are comprised solely of persons licensed under chapter 453."

SECTION 16. Chapter 435E, Hawaii Revised Statutes, is amended by substituting the word "commissioner" wherever the words "director" or "director of regulatory agencies" appear.

SECTION 17. Chapter 671, Part III, Hawaii Revised Statutes, is amended by substituting the word "director" or "director of regulatory agencies" wherever the words "commissioner" or "insurance commissioner" appear.

SECTION 18. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 19. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 26-9, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 20. This Act shall take effect upon its approval.

(Approved June 10, 1982.)

**Note**

- 1. Should be underscored.

A Bill for an Act Relating to Executive Departments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read as follows:

**“§26-9 [Department of regulatory agencies.] Department of commerce and consumer affairs.** (a) The department of [regulatory agencies] commerce and consumer affairs shall be headed by a single executive to be known as the director of [regulatory agencies.] commerce and consumer affairs.

(b) The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, rules, and regulations governing the licensing and operation of, and register and supervise the conduct of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

(c) The acupuncture, cemetery and mortuary board, board of accountants, public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration for professional engineers, architects, and surveyors, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of practicing psychologists, board of detectives and guards, real estate commission, board of veterinary examiners, and speech pathology and audiology are placed within the department of [regulatory agencies] commerce and consumer affairs for administrative purposes.

(d) Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of [regulatory agencies,] commerce and consumer affairs, and the composition of each board and commission shall be as heretofore provided by law.

(e) Notwithstanding any provision to the contrary, the employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department shall be determined by the director of [regulatory agencies] commerce and consumer affairs subject only to applicable personnel laws.

(f) The director of [regulatory agencies] commerce and consumer affairs may appoint a hearings officer or officers not subject to chapters 76 and 77 to hear and decide any case or controversy regarding licenses and the application and enforcement of rules involving any of the boards or commissions within the department of [regulatory agencies.] commerce and consumer affairs. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided that the conclusions and decisions shall be subject to review and re-determination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be conducted in accordance with chapter 91.

(g) The director may appoint a complaints and enforcement officer not subject to chapters 76 and 77 who shall facilitate the receipt, arbitration, investigation, prosecution, and hearing of complaints[.] regarding any person who furnishes commodities or services for which a license is required from the department or any board or commission thereunder.

(h) The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore constituted are transferred to the department of [regulatory agencies] commerce and consumer affairs established by this chapter. The director of [regulatory agencies] commerce and consumer affairs shall also be the insurance commissioner and commissioner of securities.

(i) In the course of an investigation of matters affecting the interest of consumers, depositors, or investors or of any other matter within the jurisdiction of the department [of regulatory agencies], the director shall have the power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which [he] the director deems relevant or material to the inquiry. Under application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

The director shall appoint and commission one or more investigators to serve subpoenas as the exigencies of the public service may require. Subpoenas served by persons appointed and commissioned by the director shall have the same force and effect as subpoenas served by police officers or deputy sheriffs. Nothing in this subsection shall be construed to entitle persons commissioned and appointed by the director to retirement benefits applicable to police officers under chapter 88. This subsection is repealed effective July 1, 1983.

(j) The director may adopt, amend, or repeal rules pursuant to chapter 91 to effectuate the purposes of all laws within the jurisdiction of the department of [regulatory agencies.] commerce and consumer affairs. The director's authority to adopt rules shall not modify, impair, or otherwise affect the power of boards and commissions placed with the department of [regulatory agencies] commerce and consumer affairs for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection (k). The director may establish, amend, or repeal registration, renewal, and late renewal fees by rules pursuant to [chapter] chapter 91 for any regulatory program placed with the department [of regulatory agencies].

(k) Any law to the contrary notwithstanding, the fees assessed or charged by any board or commission placed within the department of [regulatory agencies] commerce and consumer affairs for administrative purposes may be established, pursuant to chapter 91, as separate application, examination, and license fees, and be increased or decreased by the director of [regulatory agencies] commerce and consumer affairs to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered.

(l) Notwithstanding section 92-17 or any other law to the contrary, all boards and commissions placed within the department of commerce and consumer affairs for administrative purposes shall delegate their authority to receive, arbitrate, investigate, and prosecute complaints to the department. No board or commission shall delegate its authority to take disciplinary action against a licensee."

SECTION 2. Section 487-2, Hawaii Revised Statutes, is amended to read as

follows:

“**§487-2 Office of consumer protection; director.** There is [hereby] created within the department of [regulatory agencies] commerce and consumer affairs for administrative purposes an office of consumer protection. The head of this office shall be the director of the office of consumer protection. He shall have been admitted to practice law before the [Supreme Court] supreme court of this State and shall be appointed by the governor without regard to chapters 76 and 77.”

SECTION 3. Section 487-6, Hawaii Revised Statutes, is amended to read as follows:

“**[[§487-6]] Consumer advisory council.** There shall be a consumer advisory council consisting of eleven members who shall be appointed by the governor and serve at his pleasure. There shall be at least one member from each of the counties of the State. The chairman of the council shall be selected by the members. Each member shall serve without pay and shall be reimbursed for necessary expenses incurred while attending meetings and while in the discharge of [his] the member's responsibilities. The council shall assist the office of consumer protection and the director of commerce and consumer affairs in an advisory capacity in carrying out the duties and functions of the office.”

SECTION 4. Section 487-13, Hawaii Revised Statutes, is amended to read as follows:

“**§487-13 Penalties for unlicensed acts.** (a) Any person who furnishes commodities or services for which a license is required from the department of [regulatory agencies] commerce and consumer affairs or any board or commission thereunder without having such license is engaged in an unlawful act or practice and shall be subject to the penalty provided in subsection (b).

(b) Any person who engages in an unlawful act or practice as provided in subsection (a) shall be fined by a sum not less than \$500 nor more than \$2,500 for each unlawful act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection[,] or the department of commerce and consumer affairs.

(c) Any contract for the furnishing of commodities or services by an unlicensed person shall be void and shall prevent such person from recovering the contract price or the reasonable value thereof.”

SECTION 5. Section 487-15, Hawaii Revised Statutes, is amended to read as follows:

“**[[§487-15]] Injunction.** The director of [the] commerce and consumer affairs or the office of consumer protection [shall be authorized to] may bring civil proceedings to enjoin any violation of section 487-13(a).”

SECTION 6. Section 269-51, Hawaii Revised Statutes, is amended to read as follows:

“**[[§269-51]] Consumer advocate; director of [regulatory agencies.]** commerce and consumer affairs. The director of [regulatory agencies.] commerce and consumer affairs shall be the consumer advocate in hearings before the public utilities commission. [He] The consumer advocate shall represent, protect, and advance the interest of consumers of utility services. The consumer advocate shall

not receive any salary in addition to [his] the salary received as director of [regulatory agencies] commerce and consumer affairs.

The responsibility for advocating the interests of the consumer of utility services shall be separate and distinct from the responsibilities of the public utilities commission and those assistants employed by the commission. As consumer advocate, the director of [regulatory agencies] commerce and consumer affairs shall have full rights to participate as a party in interest in all proceedings before the public utilities commission."

SECTION 7. Section 269-52, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§269-52]]~~ **Public utilities division; personnel.** There shall be a public utilities division within the department of [regulatory agencies] commerce and consumer affairs to provide administrative support to the director of [regulatory agencies] commerce and consumer affairs acting in [his] capacity [as] of consumer advocate. The director may employ and at pleasure dismiss an executive administrator, who shall be exempt from chapters 76 and 77, [and] define [his] the executive administrator's powers and duties and fix [his] the executive administrator's compensation. The director may employ [such] engineers, accountants, investigators, clerks, stenographers, and other assistants as may be necessary for the performance of the consumer advocate's functions, subject to chapters 76 and 77."

SECTION 8. The Hawaii Revised Statutes is amended by amending the title "department of regulatory agencies" wherever it appears therein to "department of commerce and consumer affairs".

SECTION 9. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made by any other Act enacted by the regular session of 1982.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 10, 1982.)

ACT 205

H.B. NO. 2489-82

A Bill for an Act Relating to Electricians.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 448E-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

"(10) "Journeyman industrial electrician" means any person who has been licensed by the board as a journeyman industrial electrician to perform and maintain electrical work related to substation, switchgear, automatic controls, and all other industrial electrical work in existing industrial buildings and work places".



- (1) “Supervising industrial electrician” means any person who has been licensed by the board as a supervising industrial electrician to direct and supervise electrical work related to substation, switchgear, automatic controls, and all other industrial electrical work in existing industrial buildings and work places.”

SECTION 2. Section 448E-4, Hawaii Revised Statutes, is amended to read as follows:

“§448E-4 Powers and duties of board. The board shall have all the powers and duties necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limitation, the following powers and duties:

- (1) To grant licenses which shall be renewable on a biennial basis to:
  - (A) Journeyman electricians,
  - (B) Journeyman specialty electricians,
  - (C) Supervising electricians,
  - (D) Supervising specialty electricians,
  - (E) Motion picture operators,
  - (F) Master plumbers,
  - (G) Journeyman plumbers, [and]
  - (H) Maintenance electricians[;],
  - (I) Journeyman industrial electricians, and
  - (J) Supervising industrial electricians;
- (2) To make, amend, or repeal such rules [and regulations] as it may deem proper to effectuate this chapter and to insure the safety and welfare of the general public. All such rules [and regulations] shall be adopted pursuant to chapter 91. The rules [and regulations] may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;
- (3) To enforce this chapter and rules [and regulations] adopted pursuant thereto including the denial, suspension, or revocation of any license; and
- (4) To examine all applicants and determine their qualifications prior to the issuance of licenses.”

SECTION 3. Section 448E-5, Hawaii Revised Statutes, is amended to read as follows:

“§448E-5 Minimum requirements. An applicant shall possess the following minimum qualifications:

- (1) Journeyman electrician. Every applicant to be eligible for the journeyman electrician examination shall be at least eighteen years of age and must [have had at least four years' experience in the trade.] satisfactory evidence of experience in residential or commercial wiring of at least four years full-time or its equivalent, but not less than 8,000 hours as a journeyman or supervising electrician's helper.
- (2) Journeyman specialty electrician. Every applicant to be eligible for the journeyman specialty electrician examination shall be at least eighteen years of age and must have had at least four years' experience in the

- trade.
- (3) Supervising electrician. Every applicant to be eligible for the supervising electrician examination shall have been registered with the board as a journeyman electrician for at least a period of two years in the trade or shall have had equivalent experience in the trade.
  - (4) Supervising specialty electrician. Every applicant to be eligible for the supervising specialty electrician examination shall have been registered with the board as a journeyman specialty electrician for at least a period of two years in the trade or shall have had equivalent experience in the trade.
  - (5) Motion picture operator. Every applicant to be eligible for the motion picture operator examination shall be not less than eighteen years of age and shall have had not less than one year of experience under supervision of a registered motion picture operator in the operation of machines for the projection of motion pictures for commercial purposes in the trade.
  - (6) Journeyman plumber. Every applicant to be eligible for the journeyman plumber examination shall have had experience of at least five years' full-time or its equivalent but not less than 10,000 hours as a journeyman's or master plumber's helper, and is able to furnish satisfactory evidence of such fact.
  - (7) Master plumber. Every applicant to be eligible for the master plumber examination shall have been registered with the board as a journeyman plumber for at least two years or shall have had equivalent experience in the trade.
  - (8) Maintenance electrician. Every applicant to be eligible for the maintenance electrician examination shall be not less than eighteen years of age.
  - (9) Journeyman industrial electrician. Every applicant to be eligible for the journeyman industrial electrician examination shall be at least eighteen years of age and must have had experience in industrial electrical work of at least four years full-time or its equivalent, but not less than 8,000 hours.
  - (10) Supervising industrial electrician. Every applicant to be eligible for the supervising industrial electrician examination shall have been registered with the board as a journeyman industrial electrician for a period of at least two years or shall have had equivalent experience in the trade."

SECTION 4. Section 448E-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall act or assume to act as a journeyman electrician, journeyman specialty electrician, supervising electrician, supervising specialty electrician, motion picture operator, journeyman plumber, master plumber, [or] maintenance electrician, journeyman industrial electrician, or supervising industrial electrician without a license previously obtained in compliance with this chapter and the rules [and regulations] of the board; provided that any person may perform emergency plumbing repair work in his principal place of residence when such

repairs do not involve or require rearrangement of valves, pipes, or fixtures; provided further that no such emergency repairs may be performed on sewer lines, drains, gas lines, and on fixtures being served with backflow devices which includes heaters, water closets, dishwashers, and garbage disposal units.”

SECTION 5. Section 448E-11, Hawaii Revised Statutes, is amended to read as follows:

“**§448E-11 Injunction.** The board may, in addition to any other remedy available, apply to a circuit court judge for a temporary restraining order[,] or preliminary or permanent injunction restraining any person from acting, or assuming to act, as a journeyman electrician, journeyman specialty electrician, supervising electrician, supervising specialty electrician, maintenance electrician, journeyman industrial electrician, supervising industrial electrician, motion picture operator, journeyman plumber, or master plumber without a license previously obtained in compliance with this chapter and the rules [and regulations] of the board, and upon hearing and for cause shown, the judge may grant the temporary restraining order[,] or preliminary or permanent injunction.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 10, 1982.)

## ACT 206

S.B. NO. 2379-82

A Bill for an Act Relating to Sentencing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-668, Hawaii Revised Statutes, is amended to read as follows:

“**§706-668 Concurrent and consecutive terms of imprisonment.** [(1) Except as provided in subsection (2), when] When multiple sentences of imprisonment are imposed on a person at the same time, or when a person who is subject to any undischarged term of imprisonment is sentenced to an additional term of imprisonment, the sentence or sentences imposed by the court [shall] may be served concurrently[,] or consecutively.

[(2) If a person who is imprisoned in a correctional institution is convicted of a crime committed while he is imprisoned or during an escape from imprisonment, the maximum term of imprisonment authorized for the crime committed during imprisonment or during an escape from imprisonment may be added to the portion of the term which remained unserved at the time of the commission of the crime. For purposes of this section, escape is a crime committed during imprisonment.]”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 12, 1982.)

A Bill for an Act Relating to Regulation of Employment Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 373-11, Hawaii Revised Statutes, is amended to read as follows:

**“§373-11 Prohibitions.** No employment agency licensed under this chapter and no agent or employee of an employment agency shall do, make, or cause to be made or done any of the following acts herein prohibited and every such employment agency, its agents, and employees shall do and perform every act, duty, or requirement hereinafter prescribed.

- (1) No employment agency shall cause to be printed, published, or circulated any false, fraudulent, or misleading information, notice, or advertisement, nor shall an employment agency give or cause to be made or given any false promise, misrepresentation, or misleading statement or information.
- (2) No employment agency shall send out any applicant for employment without having first obtained either orally or in writing a bona fide job order from the prospective employer.
- (3) No employment agency shall knowingly send out any applicant for employment to any place where a strike, walk-out, or other labor dispute exists without first furnishing the applicant with a written statement as to the existence of the labor dispute, and the employment agency shall retain on file for two years after the date thereof, a copy of the statement of fact, signed by the applicant so sent.
- (4) No employment agency shall divide or share, or offer to divide or share with any employer, his employees, agents, or representatives, any fee, charge, or compensation received from any applicant. No employment agency shall cause or attempt to cause the discharge of any person not an employee of the employment agency for the purpose of obtaining other employment through the agency for such person.
- (5) No employment agency shall send out any minor applicant for employment without making an investigation of the nature of the employment or engagement and the duties thereof and reputation of the employer. No employment agency shall wilfully or knowingly send or direct any applicant for employment to any employment of an immoral character. No employment agency shall wilfully or knowingly procure or place or attempt to place any minor in any employment in any place where intoxicating liquors are served or sold.
- (6) No employment agency shall wilfully or knowingly place or assist in placing any applicant in employment in violation of any law of this State or any lawful order, rule, or regulation prescribed by the director.
- (7) No employment agency shall require an applicant to pay any advance fee or any other fee, deposit, or compensation other than as prescribed in this chapter.
- (8) No employment agency shall display, on any sign or window or in any

publication the name “United States Employment Service” or “State of Hawaii Employment Service”.

- (9) No employment agency or any person connected therewith shall receive or require any applicant to execute any power of attorney, promissory note, negotiable instrument, assignment of wages or salary, note authorizing a confession of judgment, or any instrument or document relating to the liability of the applicant, unless this instrument or other document has been approved both as to form and content by the director or his authorized representative.
- (10) No employment agency or any person connected therewith shall make representations to applicants concerning prospective positions, the character and probable length of employments, hours, salary, and other relevant terms and conditions of employment which are not, to the best of its knowledge, accurate.
- (11) No employment agency shall withhold from applicants written disclosure of any fees or charges for services rendered prior to the rendering of such services.
- (12) No employment agency shall provide information relating to an applicant’s personal record, employment, record, qualifications, and salary requirement to an employer directly, by mail, or otherwise, unless such information is accurate and complete to the best of its knowledge.
- (13) No employment agency shall charge an applicant any fee or service charge until such time as an applicant is employed by an employer as a result of the employment agency’s efforts.”

SECTION 2. New statutory material is underscored.

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

(Approved June 12, 1982.)

## ACT 208

H.B. NO. 2026-82

A Bill for an Act Relating to Public Shows.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sections 445-161, 445-162, 445-163, 445-164 and 445-165, Hawaii Revised Statutes, are repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved June 12, 1982.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 209

H.B. NO. 2027-82

A Bill for an Act Relating to Peddling Cake.

**ACT 210**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 445-146, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved June 12, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 210**

**H.B. NO. 2092-82**

**A Bill for an Act Relating to Motor Vehicle Safety Responsibility Act.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 287-1, Hawaii Revised Statutes, is amended by amending the definition of "proof of financial responsibility" to read:

"Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the [amount of \$10,000 because of bodily injury to or death of one person in any one accident, and, subject to such limit for one person, in the amount of \$20,000 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$5,000 because of injury to or destruction of property of others in any one accident] amounts prescribed by section 294-10(a);"

SECTION 2. Section 287-3, Hawaii Revised Statutes, is amended to read as follows:

**"§287-3 Furnishing of operating records.** [The administrator shall upon request furnish any person a certified abstract of the operating record, if any, of any person showing whether there has or has not been any conviction of the person for violating any law relating to the operation of a motor vehicle or of any injury or damage caused by the person. The administrator may collect a fee to be a realization of the general fund of not in excess of 50 cents for any such certificate.] The traffic violations bureau of the district courts shall upon request furnish any person a certified abstract of the bureau's record, if any, of any person relating to all alleged moving violations, as well as any convictions resulting therefrom, arising from the operation of a motor vehicle. The traffic violations bureau may collect a fee, to be a realization of the general fund of not in excess of \$2.00 for any such certificate."

SECTION 3. Section 287-7, Hawaii Revised Statutes, is amended to read as follows:

**"§287-7 Exceptions.** Section 287-5 and 287-6 shall not apply under the conditions stated in section 287-8 nor:

- (1) To the driver or registered owner if the registered owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident;

- (2) To the driver, if not the registered owner of the motor vehicle if there was in effect at the time of the accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;
- (3) To the driver or registered owner if the liability of the operator or registered owner for damages resulting from such action is, in the judgment of the administrator, covered by any other form of liability insurance policy or bond;
- (4) To any person qualifying as a self-insurer under section 287-42, or to any driver of a motor vehicle for the self-insurer where the self-insurer is responsible for the acts of the driver.

No automobile liability policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in the State, except that if the motor vehicle is registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, the policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in the State, executes a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action upon the policy or bond arising out of the action; provided every such policy or bond is subject[, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$10,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, to a limit of not less than \$20,000 because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$5,000 because of injury to or destruction of property of others in any one accident.] to a limit, exclusive of interest and costs, of not less than the liability coverages stated in section 294-10(a)."

SECTION 4. Section 287-17, Hawaii Revised Statutes, is amended to read as follows:

**"§287-17 Suspension to continue until judgments paid and proof given.** The license shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of the person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided, and until the person gives proof of financial responsibility subject to the exceptions stated in sections 287-16 and 287-19.

[A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor of any of the requirements of this chapter.]"

SECTION 5. Section 287-18, Hawaii Revised Statutes, is amended to read as follows:

**"§287-18 Payment sufficient to satisfy requirements.** Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

- [(1) When \$10,000 is credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as a result of any one accident; or
- (2) When, subject to such limit of \$10,000 because of bodily injury to or death of one person, the sum of \$20,000 is credited upon any judgment

or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

- (3) When \$5,000 is credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.]
- (1) When \$25,000 is credited upon any judgment or judgments rendered in excess of that amount because of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm; or
- (2) When \$10,000 is credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.”

SECTION 6. Section 287-20, Hawaii Revised Statutes, is amended to read as follows:

“**§287-20 Proof of financial responsibility required upon conviction of certain offenses.** Whenever a driver’s license has been suspended or revoked pursuant to section 286-155, or upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinafter named, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver’s license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, and driving while under the influence of drugs;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle [in motion] if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300[.] and there are reasonable grounds for the administrator to believe that the defendant is at fault.

If any person, at the time of his conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinabove named, [or of any offense for which a court of competent jurisdiction may suspend or revoke a driver’s license,] does not hold a valid driver’s license, no such license shall at any time there-



after be issued to the person unless and until he furnishes and thereafter maintains proof of financial responsibility.”

SECTION 7. The passage of this Act shall not affect prior financial responsibility determinations of the administrator under section 287-20, Hawaii Revised Statutes; provided, however, that any person presently required to maintain proof of financial responsibility by prior order of the administrator, may, upon application to the administrator, within one year of the effective date of this Act, have a redetermination made as to whether the person is required to file and maintain proof of financial responsibility under the amended provisions of section 287-20, Hawaii Revised Statutes, as applied to the facts which led to the prior order of the administrator. The ruling of the administrator on any such application shall be final and prospective only in its application.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

## ACT 211

H.B. NO. 2199-82

A Bill for an Act Relating to the Landlord-Tenant Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 521-64, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read:

“(c) The landlord, upon written notification by the tenant of any defective condition on the premises which is in material noncompliance with section 521-42(a) or with the rental agreement, shall commence repairs of the condition within twelve business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence repairs within twelve business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence[; provided further that in]. In any case involving repairs, except those required due to misuse by the tenant, to electrical, plumbing, or other facilities, including major appliances provided by the landlord pursuant to the rental agreement, necessary to provide sanitary and habitable living conditions, the landlord shall commence [affirmative good faith efforts to make] repairs within three business days of receiving oral or written notification[.], with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence repairs within three business days for reasons beyond his control he shall inform the tenant of the reasons for the delay and set a reasonable tentative date on which repairs will commence.

(d) If the landlord fails to perform in the manner specified in subsection (c), the tenant may immediately do or have done the necessary work in a workmanlike manner and upon submission to the landlord of receipts amounting to at least the sums deducted, deduct from his rent not more than [\$200] \$300 for his actual

expenditures for work done to correct the defective condition.”

SECTION 2. Section 521-71, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) When the tenancy is month to month, the landlord or the tenant may terminate the rental agreement upon his notifying the other at least twenty-eight days in advance of the anticipated termination. Before a landlord terminates a month-to-month tenancy where he contemplates voluntary demolition of the dwelling units, or conversion to horizontal property regime under chapter 514A, he shall provide notice to the tenant at least [ninety] one hundred twenty days in advance of the anticipated demolition or anticipated termination, and shall comply with the provisions relating to conversions provided in section 514A-105. If notice is revoked or amended and reissued, the [ninety-day] one hundred twenty-day period shall begin from the date it was reissued or amended.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval but shall not affect any proceedings which were begun, rights which accrued, or penalties or liabilities which were incurred prior to the effective date.

(Approved June 12, 1982.)

ACT 212

H.B. NO. 2240-82

A Bill for an Act Relating to Children in Foster Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Federal aid to children in foster care. (a) Beginning October 1, 1983, not more than forty per cent of the total number of children for whom maintenance is provided pursuant to Part E of Title IV of the Social Security Act may have been in foster care for more than twenty-four months.

(b) Commencing with the federal fiscal year beginning October 1, 1984, the department shall reduce by one per cent each fiscal year the total number of children for whom maintenance is so provided and who have been in foster care for more than twenty-four months.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 12, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 213

H.B. NO. 2313-82

A Bill for an Act Relating to the Driver Education and Training Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286G-2, Hawaii Revised Statutes, is amended to read as follows:

“**§286G-2 Driver education and training fund.** There is established in the state treasury a special fund to be known as the driver education and training fund. All [penalty assessments] fines collected pursuant to this chapter shall be deposited in the driver education and training fund to be expended by the administrative director of the courts for driver education and training programs administered by the judiciary, subject to part III of chapter 37 to the extent that the same applies to appropriations for the judiciary.”

SECTION 2. Section 286G-3, Hawaii Revised Statutes, is amended to read as follows:

“**§286G-3 Fines.** (a) A fine of [\$1] \$3 shall be levied on a finding that a violation occurred of a statute or county ordinance relating to vehicles or their drivers or owners, except (1) offenses relating to stopping (when prohibited), standing, or parking; (2) offenses relating to registration; and (3) offenses by pedestrians.

(b) The fine levied by subsection (a) shall be paid for each violation in addition to any fine imposed by the court, and whether or not such fine is suspended.

(c) The amount of the fine shall be transmitted by the clerk of the court for deposit in the driver education and training fund.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

ACT 214

H.B. NO. 2316-82

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 603-3, Hawaii Revised Statutes, is amended to read as follows:

“**§603-3 First circuit court judges.** The circuit court of the first circuit shall consist of [fifteen] seventeen judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, [and] fifteenth, sixteenth and seventeenth judge[s], respectively.”

SECTION 2. Section 603-4, Hawaii Revised Statutes, is amended to read as follows:

“**§603-4 Other circuits, judges.** The circuit court of the fifth circuit shall consist of one judge, who shall be styled judge of the circuit court of the fifth circuit. The circuit court of the second circuit shall consist of [two] three judges, who shall be styled as first, [and as] second, and third judge, respectively, and each as a judge of the circuit court of the second circuit. The circuit court of the third circuit shall consist of three judges, who shall be styled as first, second, and third judge[s], respectively, and each as a judge of the circuit court of the third circuit.”

SECTION 3. Section 604-1, Hawaii Revised Statutes, is amended to read as follows:

**“§604-1 Judicial circuits; district judges; sessions.** There shall be established in each of the judicial circuits of the State of Hawaii a district court with the powers and under the conditions herein set forth, which shall be styled as follows:

- (1) For the First Judicial Circuit: The District Court of the First Circuit.
- (2) For the Second Judicial Circuit: The District Court of the Second Circuit.
- (3) For the Third Judicial Circuit: The District Court of the Third Circuit.
- (4) For the Fifth Judicial Circuit: The District Court of the Fifth Circuit.

There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of [twelve] fourteen judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, [and] twelfth, thirteenth, and fourteenth judge, respectively. One of the district judges shall hear landlord-tenant and small claims matters, provided that when in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, he may authorize the judge to substitute for or act in addition to or otherwise in place of any other district judge of the district court of the first circuit. The district court of the second circuit shall consist of [two] three judges, who shall be styled as first, [and] second, and third judge, respectively. The district court of the third circuit shall consist of three judges, who shall be styled as first, second, and third judge, respectively. The district court of the fifth circuit shall consist of [one] two judge[.]s who shall be styled as first and second judge, respectively. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.

The district courts shall hold sessions at such places in their respective circuits and as often as the respective district judges deem essential to the promotion of justice.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon July 1, 1982.

(Approved June 12, 1982.)

ACT 215

H.B. NO. 2447-82

A Bill for an Act Relating to the Board of Dispensing Opticians.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 458-2, Hawaii Revised Statutes, is amended to read:

**“§458-2 Board of examiners; members, qualifications.** The governor shall appoint in the manner prescribed in section 26-34 as the board of dispensing opticians (hereinafter in this chapter referred to as the “board”) five members.

[No member of the board shall be reappointed to succeed himself thereon.] Upon the expiration of his term of office a member shall continue to serve until his successor has been appointed and has qualified. A member may be removed by the governor in the manner prescribed in section 26-34. Three members of the board

shall be persons engaged in the occupation of dispensing opticians and two shall be public members. Each member of the board is entitled to necessary travel and other expenses incurred in the discharge of his duties.”

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved June 12, 1982.)

ACT 216

H.B. NO. 2451-82

A Bill for an Act Relating to the Department of Social Services and Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended to read:

“**§346-29 Applications for public assistance; manner, form, conditions.** Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant’s behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after his discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total in liquid assets equal to maximum possible [money payments] financial assistance by family size multiplied by a factor of 1.5 and rounded to the nearest \$5 in determining the needs of persons for money payments; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. [; provided that this] This provision shall apply to the general assistance program but shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the eligibility requirements under the federal supplemental security income program.
- (4) Shall disregard a total of at least \$1,500 in liquid assets in determining the needs of a single person for medical assistance only.

- (5) Shall disregard a total of at least \$2,250 in liquid assets in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.

The director shall adopt rules pursuant to chapter 91 defining "liquid assets"; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as liquid assets."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 12, 1982.)

ACT 217

H.B. NO. 2573-82

A Bill for an Act Relating to Land Use Within Agricultural Districts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Within the agricultural district all lands with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;  
Farm dwelling as used in this paragraph means a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling;
- (5) Public institutions and buildings which are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment building, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, or treatment plants, [and major storage tanks not ancillary to agricultural practices,] or corporation yards, or other like structures;

- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Roadside stands for the sale of agricultural products grown on the premises;
- (10) Buildings and uses, including but not limited to mills, storage and processing facilities, maintenance facilities that are normally considered direct accessory to the abovementioned uses;
- (11) Agricultural parks; or
- (12) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 12, 1982.)

## ACT 218

H.B. NO. 2585-82

A Bill for an Act Relating to Child Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-750, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§707-750**~~]]~~ **Promoting child abuse in the first degree.** (1) A person commits the offense of promoting child abuse in the first degree if, knowing or having reason to know its character and content, the person produces, directs, or participates in the preparation of pornographic material or engages in a pornographic performance which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

"Material" means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

"Minor" means any person less than sixteen years old.

"Performance" means any play, motion picture film, dance, or other exhibition performed before any audience.

"Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, deviate sexual intercourse, or sadomasochistic abuse.

"Sadomasochistic abuse" means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

"Pornographic" shall have the same meaning as defined in section 712-1210.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material or the performance produced, directed, or participated in. The fact that the person who was employed, used, or otherwise con-

tained in the pornographic material or performance, was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the first degree is a class B felony.”

SECTION 2. Section 707-751, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§707-751]]~~ **Promoting child abuse in the second degree.** (1) A person commits the offense of promoting child abuse in the second degree if, knowing or having reason to know its character and content, the person disseminates any pornographic material which employs, uses, or otherwise contains a minor engaging in or assisting others to engage in sexual conduct.

(2) As used in this section:

“Disseminate” means to publish, sell, distribute, transmit, exhibit, or present material or to offer or agree to do the same.

“Material” means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, and tape or wire recordings.

“Minor” means any person less than sixteen years old.

“Sexual conduct” means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, deviate sexual intercourse, or sadomasochistic abuse.

“Sadomasochistic abuse” means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

“Pornographic” shall have the same meaning as defined in section 712-1210.

(3) The fact that a person engaged in the conduct specified by this section is prima facie evidence that the person engaged in that conduct with knowledge of the character and content of the material. The fact that the person who was employed, used, or otherwise contained in the pornographic material was at that time, a minor, is prima facie evidence that the defendant knew the person to be a minor.

(4) Promoting child abuse in the second degree is a class C felony.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

A Bill for an Act Relating to Forest and Water Reserve Zones.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide for an extension to the applicant when required to submit an environmental impact statement by the department of land and natural resources after submitting an environmental impact assessment with the conservation district use application.

SECTION 2. Chapter 183-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



**“§183-41 Forest and water reserve zones.** (a) There are hereby established forest and water reserve zones in each of the counties. These zones shall initially encompass all of those areas in the various counties, either government or privately owned, contained within the forest reserve boundaries as established on January 21, 1957. No use, except a nonconforming use as defined in subsection (b), shall be made of such areas unless such use is in accord with a zoning regulation adopted pursuant to subsection (c)(3), or unless such use is allowed under a temporary variance granted by the department of land and natural resources; provided that any owner of land within the forest reserve boundaries who shall desire to establish a use or uses for his land, or a greater or different use or uses, if his land is classed as nonconforming shall make application in accordance with subsection (d), and if within one hundred eighty days after receipt of the application the department shall fail to give notice, hold a hearing, and render a decision consistent with the standards set forth in subsection (c)(1) the owner may automatically put his land to the use or uses requested in his application. When an environmental impact statement is required pursuant to chapter 343 of the Hawaii Revised Statutes, the one hundred eighty days may be extended to an additional ninety days at the request of the applicant. Any requests for additional extensions shall be subject to the approval of the board.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

## ACT 220

H.B. NO. 2733-82

A Bill for an Act Relating to Real Property Leases.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 519, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§519- Leases of real property by a cooperative housing corporation.**

(a) All leases executed by a cooperative housing corporation as lessee whether executed prior to or after the effective date of this section, which provide for reopening of the contract for renegotiation of lease rent terms, shall provide or be construed in conformity with the following:

- (1) Such renegotiations shall not be scheduled more frequently than once every ten years; provided that the first of such reopenings shall not be scheduled prior to the fifteenth year following the initial date of the lease; and
- (2) Upon renegotiation, the lease rent payable by a cooperative housing corporation as lessee shall not exceed the amount derived by multiplying the “owner’s basis” by the original percentage rate.

(b) In the event the parties to a lease are unable to achieve agreement under any reopening provision, the Hawaii housing authority or its designee shall arbitrate, and its findings shall be binding and conclusive on both parties.

(c) Any covenant or provision of a lease in violation of this section shall not be enforceable in any court in this State.

(d) For purposes of this section:

- (1) "Cooperative housing corporation" means a corporation:
  - (A) Having one and only one class of stock outstanding;
  - (B) Each of the stockholders of which is entitled solely by reason of the shareholder's ownership of stock in the corporation, to occupy for dwelling purposes the dwelling unit in a building, owned or leased by the corporation and situated on land leased by the corporation; and
  - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation.
- (2) "Offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements are to be used in common by occupants of all lands adjoining such improvements or by occupants of all lands for whose benefit the improvements have been constructed or placed.
- (3) "Onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools.
- (4) "Owner's basis" means the value of the lessor's leased fee interest in the property that would apply if such interests were normally traded on an open market. The fair market value of the owner's basis shall be established to provide the lessor with just compensation for the lessor's interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value may be determined by any method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land.
- (5) "Original percentage rate" means the percentage derived by dividing the annual lease rent established for the first fixed rent period under the lease by the fair market value of the land as of the first day of the first fixed rent period."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 221

H.B. NO. 2751-82

A Bill for an Act Relating to Arrests Generally.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 803-5, Hawaii Revised Statutes, is amended to read as follows:

**“§803-5 By police officer without warrant.** (a) A police officer or other officer of justice, may, without warrant, arrest and detain for examination [such person as may be found under such circumstances as to justify] any person when the officer has probable cause to believe that [they have] such person has committed an offense, whether in the officer’s presence or otherwise.

(b) For purposes of this section, a police officer has probable cause to make an arrest when the facts and circumstances within the officer’s knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that a crime has been or is being committed.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 12, 1982.)

## ACT 222

H.B. NO. 2889-82

A Bill for an Act Relating to Public Utilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature recognizes that those utilities with annual gross revenues under \$2,000,000 are more adversely impacted by the direct costs of regulation than those utilities, such as the electric, telephone and gas companies, with gross revenues of \$2,000,000 or more. For the smaller public utilities the costs of regulation are now a higher proportion of its operating expenses than such costs are for large utilities which have personnel specifically assigned to prepare regulatory data. The purpose of this amendment is to reduce the cost of regulation for smaller utilities without sacrificing review and examination of pertinent facts by the Commission.

SECTION 2. Section 269-16, Hawaii Revised Statutes, is amended to read as follows:

**“§269-16 Regulate rates, etc., hearings, notice of hearings, appeals.** (a) All rates, fare, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly, shall be

just and reasonable and shall be filed with the public utilities commission.

(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission and prior approval by the commission for any increases in rates, fares, or charges. The notice herein provided for shall plainly state the rate, fare, charge, classification, schedule, rule or practice proposed to be established, abandoned, modified, or departed from the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for herein. A contested case hearing shall be held in connection with any increase in rates and such hearing shall be preceded by a public hearing at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The public hearing shall be an advertised public hearing or hearings on the island on which the utility is situated. Notice of the advertised hearing, with the purpose thereof and the date, time, and place at which it will open shall be advertised not less than once in each of three weeks in a newspaper published in and of general circulation in the State, the first publication being not less than twenty-one days before the public hearing and the last publication being not more than two days before the scheduled hearing. The applicant or applicants will notify their consumers or patrons of the proposed change in rates and of the time and place of the public hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing. The commission is authorized to use such additional media as radio or television to advise the public if it finds it necessary to do so. The commission, upon notice to the public utility, may suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom and after a hearing by order regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices, so that the same shall be just and reasonable, and prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, prescribe its form and method of keeping accounts, books, and records, and its accounting system, regulate the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions, and to do all things in addition which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed, and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes.

(c) The commission may in its discretion and after public hearing, upon showing by a public utility of probable entitlement and financial need, authorize temporary increases in rates, fares, and charges; provided that the commission shall by order require the public utility to return in the form of an adjustment to rates,

fares, or charges to be billed in the future any amounts, with interest at a rate equal to the rate of return on such public utility's rate base found to be reasonable by the commission, received by reason of such continued operation which are in excess of the rates, fares, or charges finally determined to be just and reasonable by the commission. Interest on any such excess shall commence as of the date that any rate, fare, or charge goes into effect which results in any such excess and shall continue to accrue on the balance of any such excess until returned.

(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate the commission shall require all parties to a proceeding to comply strictly with procedural time schedules which it establishes. If a decision is rendered after the nine-month period, the commission shall in writing report the reasons therefor to the legislature within thirty days after rendering the decision.

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may within twenty-one days after receipt object to the sufficiency of any application and the commission shall hear and determine any such objection within twenty-one days after the same is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant to submit an amended application consistent with its findings and the nine-month period shall not commence until the amended application is filed.

(e) In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the State of Hawaii, and whether or not affiliated) owned or controlled directly or indirectly by the same interest, the commission may distribute, apportion, or allocate gross income, deductions, credits or allowances between or among the organizations, trades, or businesses, if it determines that the distribution, apportionment, or allocation is necessary in order to adequately reflect the income of any such organizations, trades, or businesses to carry out the regulatory duties imposed by this section.

(f) From every order made by the commission under the provisions of this chapter which is final, or if preliminary is of the nature defined by section 91-14(a), an appeal shall lie to the supreme court subject to chapter 602 only by a person aggrieved in the contested case hearing provided for under this section in the manner and within the time provided by chapter 602, and by the rules of the court. The appeal shall not of itself stay the operation of the order appealed from, but the court may stay the order after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part.

(g) For public utilities having annual gross revenues of less than two million dollars, the commission may make and amend its rules and procedures which will

provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers."

SECTION 3. New material is underscored.

SECTION 4. This Act shall take effect upon approval.

(Approved June 12, 1982.)

ACT 223

H.B. NO. 2947-82

A Bill for an Act Making an Appropriation for an Aquaculture and Live-Stock Feeds Production Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that as major constraint to development of animal agriculture, and a factor that will significantly affect the expansion of aquaculture in Hawaii, is the cost of feed. The cost of feed, and the additional costs associated with shipping from the Mainland either feed or the ingredients required to make it, significantly affect the profitability of animal agriculture and aquaculture in Hawaii. If Hawaii is to compete with other locations in these industries, a solution to the feed problem must be found.

Technical developments at the Oceanic Institute, as well as other institutions throughout the world, have demonstrated that it is possible to grow high-protein crops in sea water, and produce feed ingredients for Hawaii's animal and aquaculture industries. The systems proposed have shown the potential to utilize animal manure as a source of nutrients, and achieve levels of feed production that are in excess of crops grown on land. A successful program will result in the potential to use marginal land and sea water to grow new crops and create a source of low-cost ingredients for the feed industry. Research is needed to develop the systems and methods required for the production of these crops.

The Oceanic Institute has developed the technical staff, equipment, and facilities required for this work, through funding from the federal and private sectors, and it will be the one to carry out the program.

SECTION 2. There is appropriated out of the general fund of the State of Hawaii \$300,000, or so much as may be necessary in fiscal year 1982-1983, for the purpose of this Act.

SECTION 3. The sum appropriated shall be expended by the Department of Land and Natural Resources for the purpose of this Act.

SECTION 4. This Act shall take effect on July 1, 1982.

(Approved June 12, 1982.)

ACT 224

H.B. NO. 2969-82

A Bill for an Act Relating to the Office of Hawaiian Affairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to simplify the budgeting process of the office of Hawaiian affairs by having it coincide with the legislature's biennium system. Rather than submitting a budget annually, the board shall submit to the legislature, in every odd-numbered year, a budget for the succeeding two fiscal years. In an even-numbered year the board may submit a supplemental budget to amend any appropriations made previously.

SECTION 2. Section 10-14, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~10-14~~] Budget, auditing.~~** [The board shall annually submit a proposed budget for the office to the legislature. The office shall be subject annually to government audit.] (a) Not less than twenty days before the legislature convenes in every odd-numbered year, the board shall submit to the legislature and to each member thereof, a budget which shall contain the recommendations of the board for the succeeding two fiscal years.

(b) Not less than twenty days before the legislature convenes in an even-numbered year, the board may submit to the legislature a supplemental budget to amend any appropriations for the current fiscal biennium or prior fiscal periods.

(c) The office shall be subject to government audit."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

ACT 225

H.B. NO. 3053-82

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 408, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"§408-2.1 Exclusiveness of name.** No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless lawfully licensed and authorized to do business in this State under this chapter and is actually engaged in carrying on an industrial loan business shall transact any business under any name or title which contains the words "finance", "financial", "industrial loan", or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular, or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an industrial loan company under chapter 408. The bank examiner may examine the accounts, books, and records of any person, company, association, fiduciary, partnership, or corporation to ascertain whether this section has been or is being violated.

Any person violating this section shall forfeit to the State \$100 a day for every day or part thereof during which the violation continues. Upon action brought by

the bank examiner or any industrial loan company, the court may issue an injunction restraining any person, firm, company, association, fiduciary, partnership, or corporation or agent from further violating this section or from further acting in any way or manner as to imply or lead the public to believe that its business is of an industrial loan character.

This section shall not apply to any person, firm, company, association, fiduciary, partnership, or corporation registered to do business in the State under the name, or title, or descriptive term which contains the words "finance", "financial", or "industrial loan", on or before the effective date of this act. Any form or type of advertisement used by such person, firm, company, association, fiduciary, partnership, or corporation shall contain a statement in the same size print as its name, or title, or descriptive term that the company is not an industrial loan company under chapter 408."

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 12, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 226

H.B. NO. 3091-82

A Bill for an Act Relating to Election Registration for the Office of Hawaiian Affairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

**"§11-17 Removal from register upon failure to vote; reregistration.** The clerk shall, not later than 4:30 p.m. on the sixtieth day after every general election, remove the name of any registered voter [failing to] who did not vote [at] in the election if the [voter] person also [failed to] did not vote [at] in the preceding primary election with the exception of (a) those who voted in the special election for election of members of the board of trustees of the office of Hawaiian affairs held in conjunction with the general election; or (b) those who [submit] submitted written requests for absentee ballots as provided in section 15-4. For this purpose "to vote" means the depositing of the ballot in the ballot box whether the ballot is blank or later rejected for any reason. In the case of voting machines "to vote" means that the voter has activated the proper mechanism and fed the vote into the machine.

The clerk shall also remove the name of any [voter] person registered to vote in the special election for election of members of the board of trustees of the office of Hawaiian affairs, who [fails to] did not vote [at] in the special election [if the voter also failed to], did not vote in [both] the general election held in conjunction with the special election and did not vote in the preceding primary election.

Any [voter] person whose name has been removed from the register may at any time prior to the closing of the register, as provided in section 11-24, have that



person's name restored in the register by presenting oneself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all [such voters] those persons shall be reentered in the register."

SECTION 2. Section 11-14, Hawaii Revised Statutes, is amended to read as follows:

"§11-14 **General county register; restrictions in use.** (a) The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the name and address of each voter. Additional information required by section 11-15 may be included in the register at the discretion of the clerk. The voter's name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

(b) The affidavits filed under section 11-15 and the general county register may be copied, and the clerk may release voter lists and tabulating cards or computer tapes containing data furnished in the affidavit, pursuant to ordinances promulgated by the respective county councils.

(c) Voter registration information which is collected and maintained by the clerk of each county may be transmitted to a central file for the purpose of correlating registration data to prevent or detect duplicate voter registrations and for the compilation of election reports.

(d) The clerk of each county shall maintain records by computer tape or otherwise of office of Hawaiian affairs registered voters to facilitate their identification as a separate category of voters."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

ACT 227

H.B. NO. 3140-82

A Bill for an Act Relating to Medicine and Surgery.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 453, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"§453- **Board of medical examiners; delegation of authority.** The board of medical examiners may by written order delegate to the executive secretary of the board or other personnel of the department of regulatory agencies any of its powers or duties as it deems reasonable and proper for the administration of this chapter. The board shall not, however, delegate its authority to:

(1) Adopt, amend or repeal rules and regulations;

- (2) Take final disciplinary action against a licensee; or
- (3) Restore a license which was revoked.

**§453- Medical advisory committee.** (a) The director of regulatory agencies shall establish a medical advisory committee, the members of which shall serve as consultants to the board of medical examiners in its review of physicians referred for possible disciplinary action. The advisory committee shall be appointed by the director from a list of twenty-five physicians submitted annually by the board.

(b) The membership of the advisory committee shall vary in number, depending on the level of expertise deemed necessary by the board in its review of the conduct of the physician in question. Each member of the committee shall serve on the committee until the investigation of the particular case for which he was designated a consultant has been concluded.

(c) All members of the advisory committee shall serve voluntarily and without compensation, but shall be paid allowances for travel and living expenses which may be incurred as a result of performance of their duties on the committee. The costs shall be paid by the department of regulatory agencies.

(d) There shall be no civil liability for any member of the advisory committee for any act done in furtherance of the purpose for which the advisory committee was established.

**§453- Reporting requirements.** (a) Every physician licensed pursuant to this chapter who does not possess professional liability insurance shall report any settlement or arbitration award of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services. The report shall be submitted to the board of medical examiners within thirty days after any written settlement agreement has been reduced in writing and signed by all the parties thereto or thirty days after service of the arbitration award on the parties.

(b) Failure of a physician to comply with the provisions of this section is an offense punishable by a board imposed fine of not less than \$100 for the first offense, \$250 to \$500 for the second offense, and \$500 to \$1,000 for subsequent offenses.

(c) The clerks of the respective courts of this state shall report to the board any judgment or other determination of the court which adjudges or finds that a physician is liable criminally or civilly for any death or personal injury caused by his professional negligence, error or omission in the practice of his profession, or his rendering of unauthorized professional services. The report shall be submitted to the board within ten days after the judgment is entered by the court.

(d) The board shall prescribe forms for the submission of reports required by this section.

**§453- Investigation by board.** In connection with an investigation by the board of medical examiners on its own motion, or as the result of information received by the board pursuant to sections 92-17, 453- , or 663-1.7(d), the director of regulatory agencies may issue subpoenas, pursuant to section 26-9(i), compelling the production of hospital records of patients whose cases were reviewed by a peer review committee that filed a report pursuant to section 663-1.7, notwithstanding section 624-25.5. A medical society, hospital or health care facility shall expunge

from the documents specific patient identifiers. Information for investigation which was obtained through a subpoena shall be for the sole use by the board to carry out its responsibilities and functions and shall be held confidential by the board, unless the information is admissible evidence at a hearing held under section 453-9. This investigation shall be deemed a sensitive matter related to public safety under section 92-5."

SECTION 2. Section 453-4, Hawaii Revised Statutes, is amended to read as follows:

"**§453-4 Qualifications for examination.** Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless he has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for [such] the examination he shall furnish proof satisfactory to the board that:

- [(1)] He (A) is a citizen of the United States; or (B) if not a citizen of the United States, has declared his intention to become a citizen of the United States, as provided by law;
- (2) (1) He is of good moral character;
- [(3)] (2) (A) He is a graduate of a medical school or college approved by the council on medical education and hospitals of the American medical association; or (B) He is a graduate of a foreign medical school, who has had at least three years' medical experience or training in a hospital approved by the council on medical education and hospitals of the American medical association for the internship or residency, and has passed the qualifying examination of the educational council for foreign medical graduates or its successor;
- [(4)] (3) He has served an internship of at least one year in either a hospital which has been certified or approved for the training of interns and resident physicians by the American medical association, council on medical education and hospitals, or if outside the United States, in a hospital which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such American medical association approval, or has completed one year of residency training in a program approved by the American medical association, council of medical education and hospitals.

Diplomates of the national board of medical examiners or those who have passed the federation licensing examination (FLEX) with scores deemed satisfactory by the board and who meet the requirements of paragraphs (1), (2), [(3),] and [(4)] (3) above, shall be licensed without the necessity of any further examination; provided that with respect to any applicant the board may require letters of evaluation, professional evaluation forms, and interviews with chiefs of service or attending physicians who have been associated with an applicant or chief residents on a service who have been associated with an applicant during his training or during his practice to be used by the board in assessing the applicant's qualifications to practice medicine."

SECTION 3. Section 453-8, Hawaii Revised Statutes, is amended to read as

follows:

“§453-8 Revocation, limitation, or suspension of licenses. (a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for him;
- (3) [Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;] Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
  - (A) Making excessive claims of expertise in one or more medical specialty fields;
  - (B) Assuring a permanent cure for an incurable disease; or
  - (C) Making any untruthful and improbable statement in advertising one’s medical or surgical practice or business;
- [(4) Wilfully betraying a professional secret;
- (5) Making any untruthful and improbable statement in advertising one’s medical or surgical practice or business;
- (6) False, fraudulent, or deceptive advertising;
- (7)] (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- [(8)] (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- [(9)] (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- [(10)] (7) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- [(11)] (9) Conduct or practice contrary to recognized standards of ethics of the medical profession;
- [(12) Consistently utilizing medical service which is inappropriate or unnecessary;
- (13)] (10) Violation of the conditions or limitations upon which a limited or temporary license is issued[.];
- (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section; or
- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary.

(b) If any [such] license is revoked, limited, or suspended by the board for any act or condition listed in this section, the board shall notify the holder of the license [shall be] in writing [notified by the board] of the revocation, limitation, or

suspension. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board [of medical examiners].”

SECTION 4. Section 453-8.3, Hawaii Revised Statutes, is amended to read as follows:

“**§453-8.3 Review of adverse decisions reported by peer review committees.** The board shall review all adverse decisions reported to it by the peer review committees of medical societies, hospitals, and other health care institutions required to report by section 663-1.7. [The information in such decisions] The reports shall not be available for public inspection or subject to discovery and shall be held confidential by the board [unless and to the extent any such information is admissible evidence at a hearing held under section 453-9]; provided that a written affirmative or negative reply may be given to a written inquiry by a hospital or health care facility as to whether a report of an adverse decision is on file with the board.”

SECTION 5. Section 624-25.5, Hawaii Revised Statutes, is amended to read as follows:

“**§624-25.5 Proceedings and records of medical, dental and optometric peer review committees and hospitals.** (a) Neither the proceedings nor the records of peer review committees of medical, dental or optometric staffs in hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the hospital or peer review committees of local medical, dental, or optometric societies shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of [any such] the committee shall be required to testify as to what transpired at [such] the meeting. The prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at [such a] the meeting who is a party to an action or proceeding the subject matter of which was reviewed at [such] the meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(b) The prohibition contained in this section shall not apply to medical, dental, or optometric society committees that exceed ten per cent of the membership of the society, nor to any [such] committee if any person serves upon the committee when his own conduct or practice is being reviewed.

(c) The prohibitions contained in this section shall apply to investigations and discovery conducted by the board of medical examiners, except as required by sections 92-17, 453- or 663-1.7(d).”

SECTION 6. Section 663-1.7, Hawaii Revised Statutes, is amended to read as follows:

“**§663-1.7 Professional society; peer review committee; no liability; exceptions.** (a) As used in this section, “professional society” or “society” means any association or other organization of persons engaged in the same profession or occupation, [the membership of which comprises a majority of the people engaged in the profession or occupation in the area which it serves and] a primary purpose of which is to maintain the professional standards of the persons engaged in its profession or occupation; and “peer review committee” or “committee” means a committee created by a professional society, or by the medical staff of a licensed hospital, whose function is to maintain the professional standards established by

the bylaws of the society or the hospital of the persons engaged in its profession or occupation, or in its hospital.

(b) There shall be no civil liability for any member of a peer review committee for any acts done in furtherance of the purpose for which the committee was established; provided that:

- (1) The member was authorized to perform in the manner in which he did; and
- (2) The member acted without malice after having made a reasonable effort to ascertain the truth of the facts upon which he acted.

(c) This section shall not be construed to confer immunity from liability upon any professional society or hospital, nor shall it affect the immunity of any shareholder or officer of a professional corporation; provided, however, there shall be no civil liability for any professional society or hospital in communicating any conclusions reached by one of its peer review committees relating to the conformance with professional standards of any person engaged in the profession or occupation of which the membership of the communicating professional society consists, to a peer review committee of another professional society whose membership is comprised of persons engaged in the same profession or occupation, or to a duly constituted governmental board or commission or authority having as one of its duties the licensing of persons engaged in that same profession or to a government agency charged with the responsibility for administering a program of medical assistance in which services are provided by private practitioners.

(d) The [highest level] final peer review committee of a medical society, hospital, or other health care [institution] facility shall report in writing every adverse decision made by it to the board of medical examiners [within thirty days after the adverse decision is verified by the committee]. The report shall be filed within thirty business days following an adverse decision. The report shall contain information on the nature of the action, its date, the reasons for, and the circumstances surrounding the action, provided that specific patient identifiers shall be expunged. If a potential adverse decision was superceded by resignation or other voluntary action that was requested or bargained for in lieu of medical disciplinary action, the report shall so state. The board shall prescribe forms for the submission of reports required by this section. Failure to comply with this subsection shall be a violation punishable by a fine of not [more] less than \$100 for each member of the committee.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 8. This Act shall not affect rights matured, penalties incurred, or prosecutions begun prior to the effective date of this Act.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Hawaii Community Development Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to make several amendments to chapter 206E, Hawaii Revised Statutes. These changes relate to the powers, functions, duties, and other areas of concern of the Hawaii community development authority. These changes will strengthen the role of the authority in carrying out the purposes of that chapter.

SECTION 2. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§206E- Violations and penalty.** (a) The authority may maintain an action for an injunction to restrain any violation of the provisions of this chapter and make take any other lawful action to prevent or remedy any violation.

(b) Any person violating any provision of this chapter shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding thirty days, or both. The continuance of a violation after conviction shall be deemed a new offense for each day of such continuance.”

SECTION 3. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section thereto to be appropriately numbered and to read as follows:

**“§206E- Relocation.** Any provision of law to the contrary notwithstanding, the authority shall adopt rules pursuant to chapter 91 to insure the appropriate relocation within or outside the district of persons, families, and businesses displaced by governmental action within the district. The rules may include, but are not limited to, the establishment and operation of a central relocation office; relocation payments for actual moving costs; fixed payments for losses suffered; payments for replacement housing or business locations; and other similar relocation matters.”

SECTION 4. Section 206E-2, Hawaii Revised Statutes, is amended by amending the definition of “public facilities” to read as follows:

“(7) “Public facilities” includes streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the district, sites for schools, parks, parking garages, sidewalks, pedestrian ways, and other community facilities. “Public facilities” shall also include public highways, as defined by statute, storm drainage systems, water systems, street lighting systems, off-street parking facilities, and sanitary sewerage systems.”

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

**“[[§206E-6]] District-wide improvement program.** (a) The authority shall develop a district-wide improvement program to identify necessary district-wide public facilities[.] within a community development district.

(b) Whenever the authority shall determine to undertake, or cause to be undertaken, any public facility as part of the district-wide improvement program, the [The] cost of providing [district-wide improvements] said public facilities shall

be assessed against the [properties] real property in the community development district specially benefiting from such [improvements.] public facilities. [For the purpose of creating assessment districts] The authority shall determine the areas of the community development district which will benefit from the public facilities to be undertaken and, if less than the entire community development district benefits, the authority may establish assessment areas within the community development district. The authority may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance such public facilities. [the] The authority shall fix the assessments against [lands] real property specially benefited[, and may adopt, pursuant to chapter 91, the appropriate provisions of the assessment ordinances of the county in which the project is located with the powers, duties, and functions to be performed by the authority, or the authority may establish rules pursuant to chapter 91 for assessing the cost and special benefits of, and payments for district-wide improvements].

(c) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section 206E-16.]

(c) The authority may adopt rules pursuant to chapter 91, and may amend the same from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district.

Bonds issued to provide funds to finance public facilities shall be secured solely by the real properties benefited or improved or the assessments thereon, or both. The bonds shall be issued according and subject to the provisions of the rules adopted pursuant to this section. Any other law to the contrary notwithstanding, in assessing real property for public facilities, the authority shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the public facilities. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method which assesses the real property according to the special benefit conferred, or any combination thereof.

The rules adopted pursuant to this section may include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to refunds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.

(d) Any provisions to the contrary notwithstanding, the authority may, in its discretion, enter into any agreement with the county in which the public facilities are located, to implement all or part of the purposes of this section.

(e) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assess-



ments and interest thereon for any specific public facilities, financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of interest and principal of the bonds issued for such public facilities until such bonds have been paid. If any surplus remains in any special fund after the payment of the bonds chargeable against such fund or in case of a premium received on the sale of the bonds, it shall be credited to and become a part of the Hawaii community development revolving fund. Moneys in the Hawaii community development revolving fund may be used to make up any deficiencies in the special fund.

(f) In the event the public facilities to be financed from the proceeds of bonds of the authority will affect public facilities owned or under the control of the county in which such public facilities are located, the authority shall obtain the consent of the governing body of such county prior to undertaking such public facilities.”

SECTION 6. Section 206E-32, Hawaii Revised Statutes, is amended to read as follows:

**“[§206E-32] District; established, boundaries.** The Kakaako community development district is established. The district shall include that area bounded by King Street[.]; Piikoi Street from its intersection with King Street to Ala Moana Boulevard[.];<sup>1</sup> Ala Moana Boulevard, inclusive, from Piikoi Street to its intersection with Koula Street; Koula Street, inclusive, from its intersection with Ala Moana Boulevard to its intersection with Ilalo Street; Ilalo Street, inclusive, from its intersection with Koula Street to Ohe Street; Ohe Street, inclusive, from its intersection with Ilalo Street to Kelikoi Street; Kelikoi Street, inclusive, from its intersection with Ohe Street to Keawe Street; the property line representing the Ewa boundary of property identified by tax map key 2-1-60:08 from the intersection of Kelikoi Street and Keawe Street to the shoreline; the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key 2-1-60:08 to the property line between Pier 2 and Pier 4; the property line between Pier 2 and Pier 4 from its intersection with the shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its intersection with the property line between lands identified by Pier 2 and Pier 4 to Punchbowl Street[.]; and Punchbowl Street to its intersection with King Street.”

SECTION 7. Section 206E-33, Hawaii Revised Statutes, is amended to read:  
**“§206E-33 Kakaako community development district; development guidance policies.** The following shall be the development guidance policies generally governing the authority’s action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district; while the authority’s development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter which affect areas lying outside the district, where the authority in its discretion decides that [such] those

activities are necessary to implement the intent of this chapter. [Such] The studies or coordinative activities shall be limited to facility systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. [The authority shall not engage in any construction activities outside of the district;] The authority may engage in construction activities outside of the district; provided that such construction relates to infrastructure development or residential or business relocation activities; provided further, notwithstanding section 206E-7, that such construction shall comply with the general plan, development plan, ordinances, and rules of the county in which the district is located;

- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which meet reasonable performance standards;
- (3) Activities shall be located so as to provide primary reliance on public transportation and pedestrian facilities for internal circulation within the district or designated subareas;
- (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review;
- (5) Redevelopment of the district shall be compatible with plans and special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;
- (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
- (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
- (8) Residential development shall ensure a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income shall be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, community meeting places, child care centers, and other services, within and adjacent to residential development;
- (9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it."

SECTION 8. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**"PART III  
RESERVED HOUSING LOAN PROGRAMS**

**§206E-101 Definitions.** The following words or terms as used in this part

shall have the following meanings, unless a different meaning clearly appears from the context:

“Authority” means the Hawaii community development authority.

“Eligible borrower” means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Has never before obtained a loan under this part; and
- (2) Meets other qualifications as established by rules adopted by the authority.

“Eligible loan” means a loan to an eligible borrower for the purchase of a reserved housing unit; provided that the property financed is located in the community development district, is and will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the authority.

“Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single family or multi-family residential property; and
- (3) Is a financial institution whose accounts are federally insured, or is an institution which is an approved mortgagee for the Federal Housing Administration, or is an approved lender for the Veterans Administration or the Farmers Home Administration, or is an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Mortgage Corporation.

“Reserved housing” means housing designated for residents in the low- or moderate income ranges who meet such eligibility requirements as the authority may adopt by rule.

“Reserved housing loan programs” includes all or any part of the loan to lenders program, the purchase of existing loans program, the advance commitments program, and the eligible loan and eligible project loan funding program authorized under this part.

“Revenue bonds” means bonds, notes, or other evidence of indebtedness of the authority issued to finance any of the reserved housing loan programs under this part.

“Trustee” means a national or state bank or trust company within or without the State which enters into a trust indenture.

“Trust indenture” means an agreement by and between the authority and the trustee, which sets forth the duties of the trustee with respect to the revenue bonds, the security therefor, and other provisions as deemed necessary or convenient by the authority to secure the revenue bonds.

**§206E-102 Rules; eligible loans.** (a) The authority shall establish requirements for reserved housing units financed by an eligible loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the reserved housing units.

(b) The authority shall establish restrictions on the terms, maturities, interest

rates, collateral, and other requirements for eligible loans.

(c) All eligible loans made shall comply with applicable state and federal laws.

**§206E-103 Revenue bonds; authorization.** (a) The authority, with the approval of the governor, may issue from time to time revenue bonds in amounts not exceeding the total amount of bonds authorized by the legislature for the purpose of undertaking and maintaining any of the reserved housing loan programs.

(b) All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this part.

(c) The revenue bonds shall be issued in the name of the authority, and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding forty years from the date of issuance.

**§206E-104 Revenue bonds; payment and security.** (a) The revenue bonds shall be payable from and secured by the revenues derived from the benefits of the reserved housing loan programs for which the revenue bonds are issued, including:

- (1) Any payment made for eligible loans or eligible project loans or other agreements entered into for the reserved housing loan programs;
- (2) Revenues derived from insurance proceeds;
- (3) Reserve accounts and earnings thereon; and
- (4) Revenues resulting from loans to mortgage lenders or from the payment on account of principal of and interest on loans purchased from mortgage lenders.

(b) The authority may pledge any revenue derived from the reserved housing loan programs financed from the proceeds of the revenue bonds to the punctual payment of the principal, interest, and redemption premiums, if any, on the revenue bonds.

(c) The revenue bonds may be additionally secured by the pledge or assignment of the loans and other agreements or any note or other undertaking, obligation, or property held by the authority to secure the loans.

(d) Any pledge made by the authority shall create a perfected security interest in the revenues, monies, or property so pledged and thereafter received by the authority from and after the time that a financing statement with respect to the revenues, monies, or property so pledged and thereafter received shall be filed with the bureau of conveyances. Upon such filing, the revenues, monies, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof.

**§206E-105 Revenue bonds; interest rate, price, and sale.** (a) The revenue bonds shall bear interest at a rate or rates payable monthly, quarterly, or semi-annually.

(b) The authority shall include the costs of undertaking and maintaining the reserved housing loan programs for which the revenue bonds are issued in determining the cost of undertaking and maintaining the reserved housing loan programs, the authority may include the cost of purchasing or funding loans or

other agreements entered into for the reserved housing loan programs; the costs of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting, and marketing services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period not to exceed one year from the date of issuance.

(c) The revenue bonds may be sold at public or private sale, and for a price as may be determined by the authority to be in the best interest of the State.

(d) Section 39-61 shall not apply to revenue bonds issued for the purpose of undertaking and maintaining any of the reserved housing loan programs as permitted by this part. The legislature consents to the taxation by the United States of America of interest on revenues bonds issued for the purpose of undertaking and maintaining any of the reserved housing loan programs as permitted by this part.

**§206E-106 Revenue bonds; investment of proceeds, and redemption.** Subject to any agreement with the holders of its revenues bonds, the authority may:

- (1) Notwithstanding any other law to the contrary, invest its moneys not required for immediate use, including proceeds from the sale of any revenue bonds, in any investment in accordance with procedures prescribed in a trust indenture;
- (2) Purchase its revenues bonds out of any fund or money of the authority available therefor, and hold, cancel, or resell the revenue bonds.

**§206E-107 Trustee; designation, duties.** (a) The authority shall designate a trustee for each issue of revenue bonds secured under the same trust indenture; provided that the trustee shall be approved by the director of finance.

(b) The trustee shall be authorized by the authority to receive and receipt for, hold, and administer the proceeds of the revenue bonds, and to apply the proceeds to the purposes for which the bonds are issued.

(c) The trustee shall also be authorized by the authority to hold and administer the reserved housing loan program revenue bond special fund established pursuant to section 206E-109, and to receive and receipt for, hold, and administer the revenues derived by the authority from the benefits of the reserved housing loan programs for which the revenue bonds are issued and to apply these revenues to the payment of the cost of administering, operating, and maintaining the reserved housing loan programs, to pay the principal of and interest on these bonds, to the establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the revenue bonds.

(d) Notwithstanding section 39-65, the director of finance may appoint the trustee to serve as fiscal agent for:

- (1) The payment of the principal of and interest on the revenue bonds; and
- (2) The purchase, registration, transfer, exchange, and redemption of the bonds.

(e) The trustee shall perform additional functions with respect to the payment, purchase, registration, transfer, exchange, and redemption, as the director of finance may deem necessary, advisable, or expeditious, including the holding of the revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

(f) Nothing in this part shall limit or be construed to limit the powers granted to the director of finance in sections 36-3 and 39-12, and the third sentence of

section 39-65, to appoint the trustee or others as fiscal agents, paying agents and registrars for the revenue bonds or to authorize and empower those fiscal agents and registrars to perform the functions referred to in those sections.

**§206E-108 Trust indenture.** (a) A trust indenture may contain covenants and provisions authorized by part III or chapter 39, and as deemed necessary or convenient by the authority for the purposes of this part.

(b) A trust indenture may allow the authority to pledge and assign to the trustee loans and other agreements related to the reserved housing loan programs, and the rights of the authority thereunder, including the right to receive revenues thereunder and to enforce the provision thereof.

(c) Where a trust indenture provides that any revenue bond issued under that trust indenture is not valid or obligatory for any purpose unless certified or authenticated by the trustee, all signatures of the officers of the State upon the revenue bonds required by section 39-64 may be facsimiles of their signatures.

(d) A trust indenture shall also contain provisions as to:

- (1) The investment of the proceeds of the revenue bonds, the investment of any reserve for the bonds, the investment of the revenues of the reserved housing loan programs, and the use and the application of the earnings from investments; and
- (2) The terms and conditions upon which the holders of the revenue bonds or any portion of them or any trustee thereof may institute proceedings for the foreclosure of any loan or other agreement or any note or other undertaking, obligation or property securing the payment of the bonds and the use and application of the moneys derived from the foreclosure.

(e) A trust indenture may also contain provisions deemed necessary or desirable by the authority to obtain or permit, by grant, interest subsidy, or otherwise, the participation of the federal government in the reserved housing loan programs or in the financing of the costs of administering, operating, or maintaining such reserved housing loan programs.

**§206E-109 Revenue bonds; special funds.** (a) A separate special fund shall be established for each reserved housing loan program or part thereof financed from the proceeds of the revenue bonds secured under the same trust indenture. Each fund shall be designated "reserved housing loan program revenue bond special fund" and shall bear additional designation as the authority deems appropriate to properly identify the fund.

(b) Notwithstanding any other law to the contrary, including specifically section 206E-16, all revenues, income, and receipts derived from the benefits of the reserved housing loan program for which the revenue bonds are issued shall be paid into the reserved housing loan program revenue bond special fund established for that program and applied as provided in the proceedings authorizing the issuance of the revenue bonds.

**§206E-110 Reserved housing loan programs; procedures and requirements.** (a) The authority shall establish procedures for:

- (1) The submission of requests or the invitation of proposals for loans to mortgage lenders;
- (2) The purchase of existing loans by auction, invitation of tenders, or negotiation;

- (3) The making of advance commitments to purchase and the purchasing of eligible loans or eligible project loans to be made by mortgage lenders by auction, invitation of tenders, or negotiation; and
- (4) Loan applications made through mortgage lenders to eligible borrowers or qualified sponsors.
- (b) The authority shall establish standards and requirements for:
  - (1) The allocation of loans to mortgage lenders;
  - (2) The allocation of funds to purchase existing loans from mortgage lenders;
  - (3) The making of advance commitments and allocation of funds to purchase eligible loans or eligible project loans from mortgage lenders; and
  - (4) The participation by mortgage lenders as originators and processors of eligible loans or eligible project loans on behalf of the authority.
- (c) The standards and requirements for the allocation of funds to mortgage lenders adopted by the authority shall be designed to include the maximum number of qualified mortgage lenders as participants in the reserved housing loan programs.
- (d) The authority may adopt rules necessary or convenient for the operation of the reserved housing loan programs under this part.

**§206E-111 Reserved housing loan programs; general powers.** (a) The authority may make, enter into, and enforce all contracts or agreements which are necessary, convenient, or desirable for the purpose of the performance of its duties in executing the reserved housing loan programs.

(b) The authority may require representations and warranties as it determines necessary to secure its loans.

**§206E-112 Reserved housing loan programs; self supporting.** The interest rate, fees, charges, premiums, and other terms of the loans made under the reserved housing loan programs shall be at least sufficient to pay the cost of administering and maintaining the portion of the specific reserved housing loan programs for which the revenue bonds have been issued, and to assure payment of the principal of and interest on the revenue bonds as they become due.

**§206E-113 Reserved housing loan programs; fees.** The authority may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, for its reserved housing loan programs.

The fees, premiums, and charges shall be deposited into the reserved housing loan program revenue bond special fund established for the particular reserved housing loan program or part thereof from which the fees, premiums and charges are derived as determined by the authority.

**§206E-114 Reserved housing loan programs; evidence of eligible loan or eligible project loan.** (a) Each mortgage lender who participates in any reserved housing loan program shall submit evidence, as deemed satisfactory by the authority, that eligible loans or eligible project loans have been made from the proceeds of the revenue bonds.

(b) The authority may inspect the books and records of the mortgage lenders as may be necessary for this section.

**§206E-115 Loans to lenders program.** (a) The authority may make loans to

mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the authority to make eligible loans in an aggregate principal amount substantially equal to the amount of the loan.

(b) The loan made to a mortgage lender shall be a general obligation of the respective mortgage lender.

(c) The loan as determined by the authority shall:

- (1) Bear a date or dates;
- (2) Mature at a time or times;
- (3) Be evidenced by a note, bond or other certificate of indebtedness;
- (4) Contain other provisions consistent with this part.

(d) Subject to any agreement with the holders of its revenue bonds, the authority may consent to any modification to the rate of interest, time, and payment of any installment of principal or interest, security or any other term of any loan to a mortgage lender or any bond, note, contract, or agreement of any kind to which the authority is a party.

**§206E-116 Loan to lenders program; collateral security.** (a) Loans made to mortgage lenders shall be additionally secured by a pledge of a lien upon collateral security in an amount as the authority deems necessary to assure the payment of principal of and interest on the loans as they become due.

(b) The authority shall determine the nature and type of collateral security required.

(c) A statement designating the collateral security pledged, the mortgage lender pledging the collateral, and the authority's interest in the pledged collateral may be filed with the bureau of conveyances. Where a statement has been filed, no possession, further filing, or other action under any state law shall be required to perfect any security interest which may be deemed to have been created in favor of the authority. The mortgage lender shall be deemed the trustee of an express trust for the benefit of the authority in all matters relating to the pledged collateral.

(d) Subject to any agreement with the holders of its revenue bonds, the authority may collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders. The authority may acquire, take possession, sell at public or private sale with or without bidding, or otherwise deal with the collateral to protect its interests.

**§206E-117 Purchase of existing loans programs.** (a) The authority may contract with the mortgage lender to purchase, in whole or in part, existing loans, whether or not eligible loans. The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds, including but not limited to provisions requiring the:

- (1) Repurchase of the loans, in whole or in part, by mortgage lenders at the option of the authority;
- (2) Payments of premiums, fees, charges, or other amounts by mortgage lenders to provide a reserve or escrow fund for the purposes of protecting against loan defaults; and
- (3) Guarantee by, or for recourse against, mortgage lenders, with respect to defaults on these loans of the authority.

(b) The authority shall require as a condition of each purchase of existing loans from a mortgage lender that the mortgage lender proceed to make and dis-



burse eligible loans in an aggregate principal amount substantially equal to the amount of the proceeds from the purchase by the authority of loans therefrom.

**§206E-118 Advance commitments program.** (a) The authority may contract with a mortgage lender for the advance commitment to purchase eligible loans or eligible project loans.

(b) The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds.

**§206E-119 Eligible loan and eligible project loan funding program.** (a) The authority may contract with mortgage lenders to fund eligible loans or eligible project loans.

(b) The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds.

**§206E-120 Loans; service and custody.** The authority may contract for the service and custody of its loans. The contract may provide for the payment of fees or charges for the services rendered; provided that the fees or charges shall not exceed the usual, customary, and reasonable charges for the services rendered.

**§206E-121 Loans; sale, pledge, or assignment.** (a) Subject to any agreement with the holders of its revenue bonds, the authority may sell its loans at public or private sale at a price and upon terms and conditions as it determines.

(b) Subject to any agreement with the holders of its revenue bonds, the authority may pledge or assign its loans, other agreements, notes, or property to secure the loans or agreements.

**§206E-122 Loans; insurance and guarantees.** The authority may procure insurance or guarantees against any default of its loans, in amounts and from insurers or guarantors, as it deems necessary or desirable.

**§206E-123 Loans; default.** The authority may renegotiate, refinance, or foreclose any loan in default.

The authority may waive any default or consent to the modification of the terms of any loan or security agreement.

The authority may commence any action to protect or enforce any right conferred upon it by any law, mortgage, insurance policy, contract, or other agreement.

The authority may bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan.

The authority may operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan.”

**SECTION 9. Construction.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. The reserved housing loan programs authorized under this Act may be undertaken, and revenue bonds may be issued under this Act and part III of chapter 39, notwithstanding that any other law may provide for a loan program similar to that authorized under this Act, and may be undertaken for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. Insofar as the provisions of this Act are inconsistent with the provisions of any other law, this Act shall be controlling.

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SECTION 10. **Severability.** If any provision of this Act, or any provision of the part to be added pursuant hereto to chapter 206E, Hawaii Revised Statutes, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect any other provision of this Act or said part or the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this Act and said part are severable.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.<sup>2</sup>

SECTION 12. This Act shall take effect upon its approval.

(Approved June 12, 1982.)

Notes

1. Should be underscored.
2. Edited pursuant to HRS §23G-16.5.

ACT 229

S.B. NO. 2271-82

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 704-402, Hawaii Revised Statutes, is amended by amending subsection (1) to read:

“(1) Physical or mental disease, disorder, or defect excluding responsibility is [a] an affirmative defense.”

SECTION 2. Statutory material to be deleted is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on January 1, 1982.

(Approved June 14, 1982.)

ACT 230

S.B. NO. 2269-82

A Bill for an Act Relating to the Establishment of a Criminal Justice Training Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that a need exists to develop expertise among the criminal justice agencies to effectively combat crime and curtail criminal activities in this State. One possible means of developing such expertise would be to foster specialized training programs among the state and county criminal justice agencies. Accordingly, this Act provides for the establishment of a criminal justice training fund which shall be utilized to finance appropriate training programs of the state and county criminal justice agencies.

SECTION 2. **Criminal justice training fund.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as

may be necessary for the fiscal year 1982-1983, to provide funds for the training of personnel in criminal justice agencies, such as the department of the attorney general, the county departments of police and prosecuting attorneys, the corrections division of the department of social services and housing, the intake service centers, and personnel of the judiciary branch of government involved with criminal cases; provided that \$30,000 shall be expended for the training of county prosecutors in skills required for the effective prosecution of persons charged with the offense of rape. The objective of such in-service training shall be to improve and strengthen the skills, competencies, performance, and overall effectiveness of personnel in our criminal justice agencies.

SECTION 3. The sum appropriated shall be expended by the attorney general who shall develop a program and allocate and award funds for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1982.

(Approved June 14, 1982.)

## ACT 231

H.B. NO. 2359-82

A Bill for an Act Relating to Witness Security and Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER WITNESS SECURITY

§ -1 **Witness security and protection.** (a) The attorney general shall establish a statewide witness program through which he may fund or provide for the security and protection of a government witness or a potential government witness in an official proceeding or investigation where the attorney general determines that an offense such as those described in sections 710-1071 (Intimidating a witness), 710-1072 (Tampering with a witness), or 710-1072.2 (Retaliating against a witness) is likely to be committed or which involves great public interest. The attorney general may also fund or provide for the security and protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered. In determining whether such security and protection or funds are to be provided, the attorney general shall give greatest priority to official proceedings or investigations involving pending or potential organized crime, racketeering activity or career criminal prosecutions.

(b) In connection with the security and protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the attorney general may fund or take any action he determines to be necessary to protect such person from bodily injury, or to assure his health, safety, and welfare, for as long as, in the judgment of the attorney general, such danger exists.

(c) Any county or state prosecuting attorney or law enforcement agency may request the security and protection provided by the attorney general or funding from the attorney general for the purpose of implementing county witness security and protection, or for contracting or arranging for security provided by other state or federal agencies such as the United States Marshals Service. Requests shall be made and approved in a timely and equitable manner as established by the attorney general.

(d) The attorney general may condition the provision of security and protection or funding upon a county matching basis or reimbursement in whole or in part by a county government to the State for the cost of such witness security and protection or for the funds granted. Such reimbursement shall be appropriate when security and protection are provided or funding is granted on an emergency basis where the provision of such protection is primarily a county responsibility.

(e) The county prosecuting attorneys, the county police departments, and all other law enforcement agencies in the State shall cooperate with the attorney general to implement a statewide witness security program. Appropriations for the purposes authorized by this section shall be made to and administered by the attorney general, who may also receive and use gifts, moneys, services, or assistance from any private source to implement the purposes of this section."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000, or so much thereof as may be necessary to carry out the purposes of this Act. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act. Any unexpended or unencumbered balance of any appropriations made by this Act as of the close of business on June 30, 1983 shall lapse into the general fund.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 14, 1982.)

ACT 232

H.B. NO. 2355-82

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 704-415, Hawaii Revised Statutes, is amended to read as follows:

**"§704-415 Disposition of application for discharge, conditional release, or modification of conditions of release.** If the court is satisfied by the report filed pursuant to section 704-414, and such testimony of the reporting examiners as the court deems necessary, that the discharge, conditional release, or modification of conditions of release applied for may be granted without danger to the committed or conditionally released person or to the person or property of others, the court shall grant the application and order the relief. If the court is not so satisfied, it shall promptly order a hearing to determine whether such person may safely be discharged or released. Any such hearing shall be deemed a civil proceeding and the burden shall be upon the [State] applicant to prove that the person may [not] safely be released on the conditions applied for or discharged. According to the deter-

mination of the court upon the hearing, the person shall thereupon be discharged, or released on such conditions as the court determines to be necessary, or shall be recommitted to the custody of the director of health, subject to discharge or release only in accordance with the procedure prescribed in section 704-412.”

SECTION 2. Statutory material to be deleted is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on January 1, 1983.

(Approved June 14, 1982.)

## ACT 233

H.B. NO. 2598-82

A Bill for an Act to Amend Section 708-833.5, Hawaii Revised Statutes, Relating to Shoplifting.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-833.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§708-833.5**~~]]~~ **Shoplifting.** (1) A person convicted of committing the offense of shoplifting as defined in section 708-830 shall be sentenced as follows:

- (a) In cases involving property or properties the value or aggregate value of which exceeds \$200: as a class C felony, provided that the minimum fine shall be the lesser of \$5,000 or four times the value or aggregate value involved;
- (b) In cases involving property or properties the value or aggregate value of which ~~[exceed]~~ exceeds \$50: as a misdemeanor, provided that the minimum fine shall be three times the value or aggregate value involved;
- (c) In cases involving property or properties the value or aggregate value of which is \$50 or less: as a petty misdemeanor, provided that the minimum fine shall be twice the value or aggregate value involved;

[provided that a defendant not in contumacious default in the payment of a fine may, instead of the mandatory minimum fines, be ordered to report to the comptroller of the department of accounting and general services to clean public buildings; the director of the department of transportation to pick up and remove litter along public highways; or the office of the chairman of the board of land and natural resources to pick up and remove litter from public parks or to perform services for the community, as the court shall provide. A defendant ordered to perform such services shall be ordered to work for a specific number of hours. This work will be certified to the court by the department involved.]

- (d) If a person has previously been convicted of committing the offense of shoplifting as defined in section 708-830, the minimum fine shall be double that specified in subsections (a), (b), (c) respectively as set forth above; provided, in the event the convicted person defaults in payment of any fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1)(f).”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 14, 1982.)

A Bill for an Act Relating to Low-Level Radioactive Waste Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately numbered and to read:

**“CHAPTER  
NORTHWEST INTERSTATE COMPACT ON  
LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT**

§ -1 **Enactment of compact.** The Northwest Interstate Compact on Low-level Radioactive Waste Management is hereby enacted into law and entered into by the State of Hawaii as a party, and is in full force and effect between the State and any other state joining therein in accordance with the terms of the compact, which compact is substantially as follows:

**ARTICLE I — Policy and Purpose**

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of low-level radioactive waste management.

**ARTICLE II — Definitions**

As used in this compact:

(a) “Facility” means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities.

(b) "Low-level waste" means waste material which contains radioactive-nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(c) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever, which, as a part of its activities, produces low-level radioactive waste;

(d) "Host state" means a state in which a facility is located.

### ARTICLE III — Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(a) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(b) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(c) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(d) Assurance that inspection of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(e) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

### ARTICLE IV — Regional Facilities

(a) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

(b) After July 1, 1983, no facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

(c) Until such time as paragraph (b) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

- (1) The generator's name and address;
- (2) A description of the contents of the low-level waste container;
- (3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States nuclear regulatory commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;
- (4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

(d) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

(e) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

(f) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

#### **ARTICLE V — Northwest Low-Level Waste Compact Committee**

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The officials shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all other officials a reasonable opportunity to review and comment upon any proposed modification



in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states, for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

#### ARTICLE VI — Eligible Parties and Effective Date

(a) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enactment into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

(b) After the compact has initially taken effect pursuant to paragraph (a) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

(c) This compact shall take effect upon consent by congress. As provided in Public Law 96-573, congress may withdraw its consent to the compact after every five year period.

#### ARTICLE VII — Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.

§ -2 **Compact administrator.** The compact administrator, acting jointly with like officers of other party states, may promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this State and its subdivisions in facilitating the present administration of the compact or of any supplementary agreement or agreements entered into by this State thereunder. The compact administrator shall adopt the practices and may impose the fees authorized under article III of the compact, except that state and county law enforcement agencies and the public utilities commission shall retain their enforcement and inspection authority relating to carriers.

§ -3 **Supplementary agreements.** The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that the supplementary agreement requires or contemplates the use of any institution or facility of the State or requires or contemplates the provision of any service by the State, the supplementary agreement shall have

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no force or effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with the rendering of such service.

§ -4 **Payment of state obligations.** The compact administrator, subject to the approval of the comptroller, may make or arrange for any payment necessary to discharge any financial obligation imposed upon this State by the compact or by any supplementary agreement entered into thereunder.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

ACT 235

H.B. NO. 2640-82

A Bill for an Act Relating to Aloha Stadium.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 109, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§109- **Enforcement; penalty.** (a) Any law enforcement officer who has police powers to arrest offenders and issue citations, including any police officer of the counties, shall have the authority to enforce any rule promulgated pursuant to section 109-2(4).

(b) Any person convicted of violating any rule of the stadium authority regulating conduct, parking, or traffic on the stadium premises shall be guilty of a petty misdemeanor punishable by a fine not exceeding \$500, or imprisonment not exceeding 30 days, or both.”

SECTION 2. Any rules previously adopted by the stadium authority and presently in effect shall continue in full force and effect until amended or repealed.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

ACT 236

H.B. NO. 2031-82

A Bill for an Act Relating to County Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sections 445-116 to 445-119, Hawaii Revised Statutes, are repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved June 14, 1982.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 237

H.B. NO. 2095-82

A Bill for an Act Relating to Vehicle Number Plates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-7, Hawaii Revised Statutes, is amended to read as follows:

**“§249-7 Number plates.** Upon receipt of the tax the director of finance shall number and register the vehicle in the owner’s name in a permanent record or book to be kept by him for this purpose, and shall furnish the owner thereof with a receipt showing upon its face the license number issued for the vehicle and the fact that the license tax has been paid thereon for the whole or the remainder of the current year in which the receipt is issued. The director of finance shall also furnish the owner, upon the original registration of the vehicle, two number plates for the vehicle or one plate in the case of trailers, semi-trailers, or motorcycles with the registration number marked thereon. The rear number plate shall have impressed thereon the year for which that series of number plates was first issued and during that year the number plates alone shall be evidence of the payment of the license tax. For original registration in subsequent years and upon the payment of the tax for each year subsequent to the year of original registration, a tag or emblem bearing a serial number and the year of issue shall be provided to the owner. Transfer of current number plates, tag, or emblem, except as authorized by this chapter or by chapter 286, is [declared a misdemeanor,] punishable by a fine of not more than \$50 for each offense.

Upon an original registration the director of finance shall fix, and shall charge to the owner, a fee equal to the cost of the number plate and tag or emblem plus the administrative cost of furnishing such plate and tag or emblem and effecting the registration. Upon the issuance of a new series of number plates as determined by the [lieutenant governor] directors of finance of each county through majority consent, the director of finance shall charge the owner a fee equal to the costs of the number plate plus the administrative cost of furnishing such plates. Upon issuing a tag or emblem in subsequent years, the director of finance shall charge the owner a fee of 50 cents. The owner shall securely fasten the number plates on the vehicle, one on the front and the other on the rear thereof, in such a manner as to prevent the plates from swinging and at a minimum of twelve inches from the ground. Number plates shall at all times be displayed entirely unobscured and be kept reasonably clean. In the case of trailers, semi-trailers, or motorcycles, one plate shall be used and it shall be fastened to the rear thereof.

Upon the issuance of the tag or emblem in any year in which the number plates do not evidence the payment of the current year’s tax and for each year subsequent to the year of the initial payment of the tax and the original registration of the

vehicle, the owner shall affix the tag or emblem to the rear number plate, except that all vehicles owned by the State [of Hawaii], any county government, any [Board of Water Supply] board of water supply, and official representatives of any foreign governments shall be issued registrations which need be renewed only in the new plate issue year.

After the initial payment of the tax and the original registration of a vehicle as herein specified, a motor vehicle shall not be required to be reweighed in any succeeding year unless it has been so altered or changed as to increase or diminish its weight. No new number plates shall, however, be issued to a new owner except as provided in sections 249-7.5 and 249-8.

Should an owner of a vehicle registered in any county, upon the disposition of the vehicle, request that the license plates furnished to him with respect to the registration of the vehicle be assigned to another vehicle subsequently acquired by him, the assignment may be made by the director of finance at his discretion. To defray additional administrative costs incurred by acceding to such requests, the director of finance shall charge a fee of \$5 for each such reassignment of license plates, in lieu of the fee for registration provided hereinafter. The procedure for registering the vehicles shall otherwise be identical with that provided by this section.

The director of finance shall, on or before the fifth day of each month, send to the chief of police of the county a list of the numbers issued by him and of changes in ownership recorded by him during the preceding month, together with a general description of the vehicles and the name and address of the owner to whom issued or registered. The chief of police shall retain each such list as a permanent record of his office."

SECTION 2. Section 249-9, Hawaii Revised Statutes, is amended to read as follows:

**"§249-9 Uniform number plates; purchase.** The number plates hereinabove referred to shall be uniform throughout the State and shall be used upon all vehicles for which a tax has been paid pursuant to sections 249-1 to 249-13. All such plates shall bear the word "Hawaii", shall have a distinct contrast between the color of the plate and the numerals and letters thereon, and shall be of such shape, size, and color, and with such arrangements of letters and numbers as may, subject to sections 249-1 to 249-13, be determined by the [lieutenant governor.] directors of finance of each county through majority consent. The numerals on all such plates shall be not less than three inches in height and the strokes thereof not less than three-eighths inch in width, except in the case of motorcycles, in which case the numerals shall not be less than one inch in height and the strokes thereof not less than one-eighth inch in width.

The [lieutenant governor] director of finance of the city and county of Honolulu shall contract annually on behalf of the counties for the purchase of all number plates, tags, or emblems required. The contract for the procurement of such plates, tags, or emblems shall specify a delivery date not later than September 1 of each year. The council of each county shall appropriate and cause to be paid over to the party with whom the [lieutenant governor] director of finance of the city and county of Honolulu shall contract, or to the [lieutenant governor] director of finance of the city and county of Honolulu as he may direct, such sum or sums as the [lieutenant governor] director of finance of the city and county of Honolulu

shall determine to be the county's proportionate share of the expense of such contract and the charges connected therewith. The contract shall be made by the [lieutenant governor] director of finance of the city and county of Honolulu as agent of the several counties, and the proportionate liability of each county shall be stated in the contract. Notwithstanding any other provision of law, the contract shall constitute a valid obligation of each county for its proportionate share.

The number plates for members of the Congress of the United States from the State shall designate their office and be of the type and color authorized for motor vehicles in the State; provided that the number on the plates of the United States senator and the United States representative shall be assigned in terms of seniority of service with the senator or representative having the greater length of service having the number "1" and consecutively thereafter for the others. The [lieutenant governor] director of finance of the city and county of Honolulu shall, in his procurement of the number plates on behalf of the counties, contract for the number plates of the members of Congress and all expenses connected therewith shall be paid by the respective members of Congress.

Notwithstanding any other provision of law, any antique motor vehicle shall be issued a special number plate for a fee of \$10 which plate shall be permanent and valid for use on such vehicles without renewal so long as the vehicle is in existence in lieu of the uniform state number plates. In addition to the payment of any other fee required by law, applicable to antique motor vehicles, the owner of any such vehicle shall pay the fee for the issuance of the special license plate. The registration numerals and special number plates assigned to antique motor vehicles shall be labeled "Horseless Carriage" and "Permanent" and shall run in a separate numerical series, commencing with Horseless Carriage No. 1."

SECTION 3. Section 249-9.1, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§249-9.1**~~]]~~ **Special number plates.** In lieu of the number plates contracted on behalf of the counties by the [lieutenant governor] director of finance of the city and county of Honolulu, the director of finance shall provide, upon request, special number plates. The special number plates shall conform to the requirements provided for the uniform number plates except that the owner shall be consulted in the choice and arrangement of letters and numbers. The fee for special number plates shall be \$100. The director of finance shall prescribe rules [and regulations] pursuant to chapter 91 to carry out the provisions of this section."

SECTION 4. Section 249-12, Hawaii Revised Statutes, is amended to read as follows:

"**§249-12 Standard size license plates.** Notwithstanding sections 249-1 to 249-11 each county director of finance may issue standard size license plates in connection with the first registration of a motor vehicle subsequent to September 1, 1956, charging therefor the costs provided in section 249-7 in the case of original registration, and the [lieutenant governor] director of finance of the city and county of Honolulu shall make the necessary contractual arrangements so that the [said] issuance of standard size license plates may be accomplished."

SECTION 5. This Act shall not be considered a mandate under Article VIII, Section 5 of the State Constitution, to undertake a new program or increase the

level of service under an existing program of any of the political subdivisions.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

ACT 238

H.B. NO. 2154-82

A Bill for an Act Relating to Compulsory School Attendance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 298-12, Hawaii Revised Statutes, is amended to read as follows:

“**§298-12 Penalty.** If any child of school age persists in absenting himself from school, the [district] family court judge shall, upon a proper petition, citation or complaint being made by the school teacher or any other officer or agent of the department of education, or police officer, or any other person, cause such child, and the father or mother, guardian, or other person having the charge of the child, to be summoned to appear before the judge, and upon its being proved that the person responsible for the child had not used proper diligence to enforce the child's regular attendance at school, such responsible party shall be [fined not less than \$5 nor more than \$50, or imprisoned not more than two months;] guilty of a petty misdemeanor; provided, that this section shall not apply to any child not liable to compulsory attendance at school.”

SECTION 2. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

“**§571-14 Jurisdiction; adults.** The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by his parent or guardian or by any other person having his legal or physical custody, and any violation of section [707-723,] 707-726, 707-727, 709-902, 709-903, 709-904, [or] 709-905, or 298-12, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
  - (A) Deserting, abandoning, or failing to provide support for any person in violation of law; or
  - (B) An offense, other than a felony, against the person of the defendant's husband or wife.

In any case within paragraph (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Nonsupport Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.

- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

## ACT 239

H.B. NO. 2194-82

A Bill for an Act Relating to Boards and Commissions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 439-9, Hawaii Revised Statutes, is amended to read:  
 "§439-9 [Fees; expenditures.] Expenses. (a) [Members of the board of cosmetology shall be paid such amount as shall be approved by the board not in excess of \$10 per day for each day on which work is done by them in connection with authorized activities of the board, and any member while engaged in performing official duties away from the island on which he resides shall be paid \$10 per day and reimbursed for the actual expenses incurred by him in the performance of such duties.] The members of the board shall serve without pay but shall be reimbursed for actual expenses incurred in the discharge of their duties.

[(b) The secretary shall receive, in addition to the sums for which provision is made in subsection (a), a salary in such amount a year (not to exceed \$150) as the board determines and his necessary expenses incurred in the performance of his official duties.]

[(c)] (b) All fees received by the board shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund."

SECTION 2. Section 440-3, Hawaii Revised Statutes, is amended to read:  
 "§440-3 Expenses of commissioners. The members of the boxing commission shall be allowed their reasonable expenses for travel and other costs necessarily incidental to the discharge of their duties [and shall each receive and be paid compensation for their services at the rate of \$10 per day for each day's actual attendance upon their duties, but the members of the commission shall not receive more than \$50 each per month on account of such compensation]."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

A Bill for an Act Relating to the Board of Dental Examiners.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 447-1, Hawaii Revised Statutes, is amended to read:

**"§447-1 Who may become dental hygienists.** Any person [of good moral character] being eighteen years of age or over and holding or having a diploma or a proper certificate of graduation from an accredited high school employing at least a four year course of instruction and likewise holding and having a diploma or proper certificate of graduation from an American training school for dental hygienists requiring at least a two year course, accredited and recognized by the board of dental examiners, may, upon written application made to and filed with the secretary of the board at least thirty days prior to the date selected by the board for the examination, be examined by the board for qualification as a dental hygienist.

The application for examination shall be accompanied by the applicant's certificate of graduation, and at the time of filing the same, the applicant shall pay to the board an examination fee of \$30, which fee, together with all other fees or charges in this chapter provided, shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

Two examinations shall be held in each year[, one in February and one in August.] at such time as the board designates. The examinations [shall be conducted in the English language and] shall cover subjects considered essential by the board for a dental hygienist and shall likewise include a practical examination on the removal of deposits or stains from the exposed surfaces of the teeth. The board shall furnish a chair and engine, but the applicant shall supply all necessary instruments, materials, and patients for the examination.

If the applicant, in the opinion of the board, successfully passes the examination, he shall be registered and receive a certificate of ability to practice as a dental hygienist in the State. Every registered dental hygienist, before entering practice, shall pay the board \$4.50 as a registration fee. On or before December 31 of each odd-numbered year, every registered dental hygienist desiring to begin or continue to practice in the State shall pay to the board a fee of \$9 for the biennial registration thereof. The failure, neglect, or refusal of any such duly licensed dental hygienist to pay the biennial registration fee shall constitute a forfeiture of the license, but the license may be restored upon written application therefor and the payment to the board of the sum of \$20.

Every dental hygienist practicing dental hygiene in the State shall furnish the board with his place of employment and the name of the dentist or institution by whom he is employed.

No person shall practice dental hygiene, either gratuitously or for pay, or shall offer or attempt so to practice, or shall advertise or announce himself publicly or privately as prepared or qualified so to practice, without having a license as in this section provided, nor shall any licensed dental hygienist practice except under the supervision of a licensed dentist as in this chapter provided."

SECTION 2. Statutory material to be repealed is bracketed. New material is



underscored.

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

(Approved June 14, 1982.)

ACT 241

H.B. NO. 2243-82

A Bill for an Act Relating to Elderly Abuse or Neglect.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 349C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§349C- Confidentiality of reports.** All reports concerning elderly abuse or neglect made pursuant to this chapter, as well as all records of such reports, are confidential and any unauthorized disclosure of a report or record of a report is a misdemeanor. The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to provide for the confidentiality of reports and records and for the authorized disclosure of reports and records.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 14, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 242

H.B. NO. 2445-82

A Bill for an Act Relating to the Uniform Securities Act (Modified).

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 485, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“§485- Request for private consultant.** Upon the filing of the application for registration of securities as provided in sections 485-9, 485-10, 485-11 or application for exemption of securities as provided in section 485-7, the applicant may, in writing, request that the registration be prepared by a private consultant, and when requested the commissioner may contract with private consultants for such review. The cost of the review shall be borne by the applicant; provided that upon payment of the cost of review, the applicant shall be reimbursed one-half of the respective filing fee.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 14, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Solid Waste Disposal.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-1, Hawaii Revised Statutes, is amended to read:

“§342-1 **Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) “Complaint” means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule, regulation, or order promulgated pursuant to this chapter.
- (2) “Department” means the department of health.
- (3) “Director” means the director of health.
- (4) “Party” means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.
- (5) “Permit” means written authorization from the director to discharge waste or to construct, modify, or operate any air pollution source, water pollution source, excessive noise source, or solid waste disposal system. A permit authorizes the grantee to cause, emit or discharge waste or pollution in a manner or amount, or to do any, not forbidden by this chapter, or by rules and regulations promulgated under this chapter, but requiring review by the department.
- (6) “Person” means any individual, partnership, firm, association, public or private corporation, the State or any of its political subdivisions, trust estate or any other legal entity.
- (7) “Pollution” means air pollution, water pollution, [or] excessive noise, or solid waste pollution including hazardous waste pollution as herein-after defined.
- (8) “Treatment works” means any plant or other facility used for the purpose of controlling pollution.
- (9) “Variance” means special written authorization from the director to cause, emit, or discharge waste or pollution in a manner or in an amount in excess of applicable standards, or to do an act that deviates from the requirements of rules or regulations promulgated under this chapter.
- (10) “Waste” means sewage, industrial and agricultural matter, excessive noise and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the atmosphere, lands or waters of this State.”

SECTION 2. Section 342-6, Hawaii Revised Statutes, is amended to read:

“§342-6 **Permits; procedures for.** (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary in order for it to determine whether the proposed installation, alteration, or use will be in accord with applicable rules, regulations, and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if

he determines that such will be in the public interest; provided that the permit may be subject to such reasonable conditions as the director may prescribe. The director, on application, shall renew a permit from time to time for a term not exceeding five years if he determines that such is in the public interest. The director may, on application, modify the conditions of a permit in any manner consistent with the public interest. The director shall not deny an application for the issuance, renewal, or modification of a permit without affording the applicant a hearing in accordance with chapter 91.

The director may, on his own motion or the application of any person, modify, suspend, or revoke any permit if, after a hearing in accordance with chapter 91, he determines that:

- (1) There is a violation of any condition of the permit; or
- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts; or
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) Such is in the public interest.

The director shall insure that the public receive notice of each application for a permit to control water or hazardous waste pollution. He may hold a public hearing before ruling on an application for a permit to control water or hazardous waste pollution if he determines such public hearing to be in the public interest.

In determining the public interest, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director may by rule prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

(d) The failure of the director to act on an application for the issuance of a permit or an application by a permit holder for the modification or renewal thereof within one hundred eighty days of the receipt of such application shall be deemed a grant of such application so long as the applicant acts consistently with the application and all plans, specifications, and other information submitted as a part thereof.

(e) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of his application so long as he acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as a part thereof."

SECTION 3. Section 342-11, Hawaii Revised Statutes, is amended to read:

"§342-11 Penalties. (a) Violation of the vehicular noise control [regulations] and vehicular smoke emission [regulations promulgated] rules adopted by the department pursuant to this chapter shall constitute a violation as defined in [the Hawaii Penal Code,] section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each

separate offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control [regulations promulgated] rules adopted by the department pursuant to this chapter shall constitute a violation as defined in [the Hawaii Penal Code,] section 701-107 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule [or regulation], other than vehicular noise control, vehicular smoke emission control, and open burning control [regulations,] rules, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission, and open burning [regulations,] rules, shall be considered a civil action.

(d) Any person who knowingly (1) transports any hazardous waste to a storage, treatment, or disposal facility and who does not have a permit under section 342-53(b) to treat, store, or dispose of that particular hazardous waste; (2) treats, stores, or disposes of hazardous waste without first having a permit under section 342-53(b); or (3) makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with chapter 342, part V, shall be subject to criminal penalties of not more than \$25,000 for each day of violation or to imprisonment not to exceed one year, or both. If the conviction, is for a violation committed after a first conviction, criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.

[(d)] (e) Any person who [willfully] wilfully or negligently violates part III of this chapter or any rule or regulation promulgated by the department pursuant to part III of this chapter shall be punished by a fine of not less than \$2,500 nor more than \$25,000, per day of violation or by imprisonment for not more than one year, or both.

[(e)] (f) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building or place which he is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 4. Section 342-51, Hawaii Revised Statutes, is amended to read:

"[[§342-51]] **Definitions.** As used in this part, unless the context otherwise requires:

- (1) "Solid waste" means garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial [and], commercial, mining, and agricultural operations, and sludge from waste treatment plants, water supply treatment plants, residues from air pollution control facilities, and<sup>1</sup> from community activities, but does not include solid or dissolved material in domestic sewage or other substances in water sources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irriga-

- tion return flows, or other common water pollutants. This definition is also intended to include liquid waste materials such as waste oil, pesticide, paints, solvents, and hazardous waste.
- (2) “Approved solid waste disposal system” means a system for the storage, treatment, transfer, and disposal of solid waste approved by the director.
  - (3) “Sanitary landfill” means a land site on which engineering principles are utilized to bury deposits of solid waste without creating a nuisance or hazard to public health or safety.
  - (4) “Incineration” means the [destruction] treatment of solid waste by burning in a furnace designed for the purpose wherein solid waste is essentially reduced to ash, carbon dioxide, and water vapor.
  - (5) “Open dump” means an unregulated disposal site that is operating without required [compaction and cover.] pollution control measures.
  - (6) “Hazardous waste” [includes, but is not limited to such items as plastics, explosives, acids, caustics, chemicals, poisons, drugs, asbestos fibers, pathogenic wastes from hospitals, sanitoriums, nursing homes, clinics, and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like.] means hazardous waste as defined in the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. 6901, et. seq.), as amended.
  - (7) “Financial responsibility” means a trust fund, surety bond, or letter of credit to assure proper closure, post closure, and compensation for injuries to people or property, imposed by the director from owners or operators of hazardous waste treatment, storage, and disposal facilities.
  - (8) “Treatment” when used with reference to hazardous waste means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.
  - (9) “Manifest” means the form used for identifying the quantity, composition, and origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.
  - (10) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste onto any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including ground waters.”

SECTION 5. Section 342-52, Hawaii Revised Statutes, is amended to read:  
 “[~~§~~342-52] **Powers and duties, specific.** In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate solid waste pollution in the State. In the discharge of this duty the director

may:

- (1) Establish by rule [or regulation] the criteria for siting design, construction, financial responsibility, manifest, and operation of solid waste treatment, storage, transport, and disposal systems;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in the disposal of solid waste;
- (4) Conduct and supervise research programs for the purpose of determining the sources of solid waste, effects, and hazards of pollution associated with disposal systems;
- (5) Conduct and supervise state educational and training programs on solid waste disposal systems, including the preparation and distribution of information relating to solid waste pollution;
- (6) Require complete and detailed plans or reports on existing solid waste disposal systems and of any proposed addition to, modification of, or alteration of any such systems which contain the information requested by the director in the form prescribed by him, which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner; and
- (7) With the approval of the governor, cooperate with, and receive money from the federal government or any political subdivision of the State, or from private sources for the study and control of solid waste pollution."

SECTION 6. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.<sup>2</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

Notes

1. Should be underscored.
2. Edited pursuant to HRS §23G-16.5.

ACT 244

H.B. NO. 2564-82

A Bill for an Act Relating to Creation of Special Handling Fees for Review of Corporation and Partnership Documents.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 416-97, Hawaii Revised Statutes, is amended to read: "**§416-97 Fees; amount.** The following fees shall be paid to the director of regulatory agencies upon the filing of the corporate documents:

- (1) Articles of incorporation and affidavit of incorporation, 20 cents per \$1,000 authorized capital, \$50 minimum, \$1,000 maximum;

- (2) Certificate of increase of authorized capital stock, 20 cents per \$1,000 authorized capital increase, \$20 minimum, \$1,000 maximum;
- (3) Certificate of renewal or extension of corporate existence, same as the filing of articles of incorporation;
- (4) Certificate of reduction of capital stock, \$15;
- (5) Certificate of amendment of articles of incorporation, \$10;
- (6) Agreement of merger or consolidation, \$50;
- (7) Annual corporation exhibit of domestic and foreign corporations organized for profit, \$10;
- (8) Certificate of dissolution, \$5;
- (9) Resolution of issuance of preferred stock, \$10;
- (10) Certification, 10 cents per page or any portion thereof;
- (11) Petition and charter of incorporation of nonprofit corporation, \$10;
- (12) Certificate of amendment and renewal or extension of charter of nonprofit corporation, \$5;
- (13) Articles of incorporation of agricultural and fishing cooperatives without capital stock, \$15;
- (14) Restated articles of incorporation: corporations with an authorized capital of less than \$500,000, \$20; corporations with an authorized capital of \$500,000 or more, \$100;
- (15) Annual exhibit of nonprofit domestic and foreign corporations, \$1;
- (16) Agreement of merger or consolidation of nonprofit corporation, \$5[.];
- (17) Special handling fee for review of corporation documents, excluding agreement of merger or consolidation, \$40;
- (18) Special handling fee for review of agreement of merger or consolidation, \$100;
- (19) Special handling fee for certificates issued by the department, \$10 per certificate;
- (20) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to a special fund which may be established for use by the department in expediting the processing of documents. For fiscal year 1982-1983 at least two temporary business registration assistants I's shall be paid out of the special fund. This special fund shall be repealed effective July 1, 1984."

SECTION 2. Section 418-7, Hawaii Revised Statutes, is amended to read:

**"§418-7 Powers and liabilities; fees.** Every foreign corporation other than nonprofit, on complying with section 418-1 and paying to the director of regulatory agencies a fee of \$50 shall, subject to sections 418-9 and 418-13, have the same powers and privileges and be subject to the same disabilities as are by law conferred on corporations constituted under the laws of the State, and shall, for the purposes for which it is constituted, have full power to hold, take, and convey by way of sale, mortgage, or otherwise, real, personal, and mixed estate in the State; provided[,] that the purposes for which the corporation is constituted are not repugnant to or in conflict with any law of the State. Nothing herein shall be construed to give any corporation any of the special powers conferred by law upon railroad or banking corporations constituted under the laws of the State. A special handling fee of \$40, credited to the special fund authorized by section 416-97 may be charged to

expedite the processing of the foreign corporation declaration required to be filed by section 418-1."

SECTION 3. Section 425-22, Hawaii Revised Statutes, is amended to read:  
 "§425-22 **Formation.** Two or more persons (as defined in section 425-102), any of whom may be acting in a fiduciary capacity, desirous of forming a limited partnership, shall sign and file a certificate, as follows:

- (1) The certificate shall state:
  - (A) The name of the partnership;
  - (B) The character of the business;
  - (C) The location of the principal place of business;
  - (D) The name and place of residence of each member; general and limited partners being respectively designated;
  - (E) The term for which the partnership is to exist;
  - (F) The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
  - (G) The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they are to be made;
  - (H) The time, if agreed upon, when the contribution of each limited partner is to be returned;
  - (I) The share of the profits or the other compensation by way of income which each limited partner is to receive by reason of his contribution;
  - (J) The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution;
  - (K) The right, if given, of the partners to admit additional limited partners;
  - (L) The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income and the nature of the priority;
  - (M) The right, if given, of the remaining general [ ] partner [ ] or partners to continue the business on the death or retirement of a general partner, or on the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property; and
  - (N) The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.
- (2) The certificate shall be certified by each of the persons and shall be filed in the office of the director of regulatory agencies.

A limited partnership is formed if there has been a substantial compliance in good faith with the foregoing requirements.

The director shall preserve the certificate and keep a record of the same, which shall be duly indexed. The certificate, record, and index shall, during all business hours, be open to the inspection of the public, free of charge. A fee of \$1.50 shall be charged for each name signed to any certificate. A special handling fee of \$40, credited to the special fund authorized by section 416-97 may be charged to



expedite the processing of the certificate of limited partnership required to be filed pursuant to this section."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

## ACT 245

H.B. NO. 2682-82

A Bill for an Act Relating to Health Planning.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 323D-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The state agency shall:

- (1) Conduct the health planning activities of the State in coordination with the subarea councils, implement the state health plan, and determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting the needs by the department of health and other state agencies, designated by the governor for the purpose of making the recommendations, and after consulting with the statewide council. If any recommendation of any subarea health planning council is not incorporated into the state health plan an explanation stating the reasons for non-incorporation shall be appended to that plan.
- (2) Prepare, review at least triennially, and revise as necessary the preliminary state health plan. The state agency shall refer the preliminary state health plan to the department of health and other state agencies designated by the governor to review the goals and related resource requirements of the preliminary state health plan and to make written recommendations to the state agency respecting the goals and requirements.
- (3) Prepare, review, and revise the annual implementation plan.
- (4) Assist the statewide council in the performance of its functions.
- (5) Administer the state certificate of need program pursuant to part V of this chapter.
- (6) Determine the need for new institutional health services proposed to be offered within the State.
- [(7) Review on a periodic basis, but not less often than every five years, the appropriateness of at least those institutional and home health services offered in the State and with respect to which goals have been established in the state health plan. In making the appropriateness review, the state agency shall at least consider the need for the service, its accessibility and availability, its financial viability, its cost effectiveness, and the quality of service provided.

- (8) (7) Serve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review and revision of the state health plan.
- [(9)] (8) Prepare an inventory of the health care facilities, other than federal health care facilities, located in the State and evaluate on an ongoing basis the physical condition of the facilities.
- [(10)] (9) Provide technical assistance to persons, public or private, in obtaining and filling out the necessary forms for the development of projects and programs.
- [(11)] (10) Do all things necessary as required by federal and state laws."

SECTION 2. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§323D- **Additional function; state agency.** Unless required by federal law or federal regulations, the state agency may review on a periodic basis, but not more often than every five years, the appropriateness of at least those institutional and home health services offered in the State and with respect to which goals have been established in the state health services and facilities plan. In making the appropriateness review, the state agency shall at least consider the need for the service, its accessibility and availability, its financial viability, its cost effectiveness, and the quality of service provided."

SECTION 3. Section 343D-41, Hawaii Revised Statutes, is amended by amending the definition of "expenditure minimum" to read as follows:

"(5) "Expenditure minimum" means [\$150,000, unless otherwise adjusted.] \$600,000 for capital expenditures, \$400,000 for major medical equipment, and \$250,000 for operating costs for new services. The state agency may adopt rules in conformity with chapter 91 which provide that the expenditure minimum may be periodically adjusted to reflect any change in an index [maintained or developed by the United States Department of Commerce and] designated by the secretary by federal regulation for purposes of making the adjustment."

SECTION 4. Section 323D-44, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The state agency shall [approve or deny or grant conditional certification to an] issue a decision on the application within ninety days after the beginning of the period for agency review, unless the state agency within the ninety days notifies the applicant in writing that the period for agency review [of the application] has been extended by the state agency sixty days beyond the ninety days. [If the state agency fails to approve or deny or grant conditional certification to an application within the period for agency review, the applicant may, within ninety days following the expiration of the period for agency review, bring an action in the nature of mandamus in the circuit court of the circuit in which the applicant resides or in the circuit in which the health care facility or health care service is or was planned to be located to compel the state agency to approve or deny or grant conditional certification to the applicant.] The decision shall be subject to post-decision review procedures which the state agency may provide for by rules adopted in conformity with chapter 91."

SECTION 5. Chapter 323D, Hawaii Revised Statutes, is amended by deleting the term "state health plan" wherever it appears in Chapter 323D, Hawaii Revised Statutes, and by substituting in lieu thereof the term "state health services and facilities plan."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval but shall not apply to any certificate of need application filed with the state health planning and development agency prior to the effective date of the Act.

(Approved June 14, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 246

H.B. NO. 2750-82

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-666, Hawaii Revised Statutes, is amended to read as follows:

**"§706-666 Definition of<sup>1</sup> proof of conviction.** (1) An adjudication by a court of competent jurisdiction that the defendant committed a crime constitutes a conviction for purposes of sections 706-606.5, 706-662, and 706-665, although sentence or the execution thereof was suspended, provided [that the time to appeal has expired and] that the defendant was not pardoned on the ground of innocence.

(2) Prior conviction may be proved by any evidence, including fingerprint records made in connection with arrest, conviction, or imprisonment, that reasonably satisfies the court that the defendant was convicted."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 14, 1982.)

Note

1. Prior to amendment, the word "and" appeared here instead of "of".

ACT 247

H.B. NO. 2936-82

A Bill for an Act Relating to Industrial Loan Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended to read:  
**"§408-15 Interest rates; late charges; other charges; refunds; open-end loans.**

(a) No industrial loan company shall directly or indirectly charge, contract for, collect, or receive any interest, discount, fees, charges, or other consideration on any loan made by it except as provided by this section; or as permitted by any exemption provided under chapter 478.

(b) Advance interest or discount. An industrial loan company may charge, contract for, receive, or collect in advance interest or discount at any rate which does not exceed the following maximum rate for the particular period and type of contract hereinafter set forth, computed in the manner set forth in section 408-3, at the inception of the contract, to wit:

- (1) Where interest is paid or deducted in advance for a period of not more than eighteen months upon any contract (whether the principal amount of the contract is payable in one payment at the end of the maturity period thereof or in installments), it shall not exceed twelve per cent a year computed in the manner set forth in section 408-3 at the inception of the contract.
- (2) Where interest is payable or deducted in advance upon a contract payable in a period of more than eighteen months, it shall not exceed an amount computed in the manner set forth in section 408-3, as follows: twelve per cent a year for the first eighteen months, plus nine per cent a year for the next twelve months (or portion thereof), plus six per cent a year for the next twelve months (or portion thereof), plus three per cent a year for the next six months (or portion thereof), of such period, as the case may be.

Interest shall not be deductible in advance for more than four years.

(For example: upon a contract, the principal amount of which is \$120, payable in twenty-four months, in monthly installments of \$5, the maximum amount of interest which may be deducted in advance under this section is computed as follows:

12 per cent a year of \$120 for first 18 months .....	\$21.60
9 per cent a year of \$120 for next 6 months .....	\$5.40
Total interest deductible in advance from principal amount of the contract .....	\$27.00

- (3) For loans made or committed to after  May 31, 1980  and prior to July 1, 1985, the maximum rates of interest specified in paragraphs (1) and (2) of this subsection shall be as follows: A maximum rate of interest specified as twelve per cent a year shall be fourteen per cent a year, a maximum rate of interest specified as nine per cent a year shall be ten and one-half per cent a year, a maximum rate of interest specified as six per cent a year shall be seven per cent a year, and a maximum rate of interest, specified as three per cent a year shall be four per cent a year. This paragraph shall not apply to loans made or committed to before  May 31, 1980 .
- (4) In addition to requiring and collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly, or other periodic installments.

- (5) Late charges on delinquent installments. In addition to requiring and collecting or deducting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of late charges not to exceed twelve per cent a year on any contractual installment or portion thereof which remains unpaid on the due date of the installment where there has been no extension or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon. The company shall give the borrower written notice of the assessment of late charges prior to the due date for the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract. This [subsection (b)(5)] paragraph shall not apply to open-end loans.
- (6) After maturity interest charges. Upon maturity of the contract, the rate of interest when computed under this subsection on the unpaid principal balance of the loan shall be eighteen per cent a year or the original contract rate of interest, whichever is less. This [subsection (b)(6)] paragraph shall not apply to open-end loans.
- (c) Fraction of a month. In computing interest for any of the purposes of this section, or interest refunds under subsection (f), for any period, any fraction of a month shall be considered as a whole month.
- (d) Where not an installment contract. Nothing in this chapter shall be deemed to prohibit an industrial loan company from lending money upon a contract to repay the principal amount at the end of the maturity period, instead of in installments, under which contract interest is either deductible in advance, or is payable in weekly, monthly, or other periodic installments, or at the end of such period, provided the interest payable or paid is not in excess of the maximum prescribed by this section for loans repayable in installments of principal.
- (e) Application, licensees only. No person, firm, or corporation (not holding a license issued under this chapter) shall charge, contract for, collect, or receive interest, discounts, fees, charges, or other consideration on any loan in the amount or in the manner provided in this section unless permitted so to do by other state law.
- (f) Refunds; prepayment. On a contract which has been discounted or on which interest has been collected in advance, and which is then paid or refinanced or on which judgment is then obtained before maturity, the industrial loan company involved shall refund to the borrower on account of unearned discount or interest an amount computed, on that portion of the principal amount which has not yet matured, at the same rate of discount or interest as was charged at the time the contract was made, for the term of the contract remaining after the date of the payment or after the date of the judgment; provided that no refund less than 25 cents need be made; and provided further, that checks issued to refund interest which are not presented for payment within three years from the date of issue may be declared canceled and the sum thereof retained as earnings of the licensee. Each company shall permit any borrower from it to pay partially or wholly any contract or installment on a contract before the due date, if the contract has been in effect for a period of at least three months. The company shall not be required to refund any portion of the unearned discount or interest which results in a minimum discount

or interest retained on the contract of less than \$15. This subsection shall not apply to open-end loans.

(g) Deferred payments, interest, etc. Any payment on account of the principal amount of a contract, which is due on a particular date, may be extended or deferred to a later date by mutual agreement, and, upon the amount of the principal payment so extended or deferred, interest, not exceeding that permitted upon an original loan by this section, for the actual period of the extension or deferment, may be charged and may be collected in advance at the commencement of the period of extension or deferment[.]; provided that the term and conditions of the extension or deferment, including the principal amount so extended or deferred, and the period of, and the charge for, the extension or deferment, shall be set forth in writing and signed in duplicate by the borrower and the company, one copy of the same to be kept on file with the contract and the other copy to be given to the borrower.

(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract;
- (2) Appraisal fees, and abstractors' fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company;
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and premiums for insurance on the life [and/or] or disability or both of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon;
- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.
- (6) Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j); provided[.], that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any

such loan fees or "points" and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) equal to the maximum rate of interest permissible under subsection (j).

- (7) Any reasonable attorneys' fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more, provided that such charges shall not exceed \$15 per applicant and such charges are paid to third parties and no portion of such charges inures to the benefit of the company.
- (i) Minimum discount or interest on conditional sale. When the discount or interest on a conditional sale contract of \$100 or more is less than \$15, a charge for discount or interest of \$15 shall be allowed.
  - (j) As an alternative to the interest authorized by subsection (b)[:];
  - (1) An industrial loan company may contract for and receive interest at a rate not exceeding eighteen per cent per year on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that retail installment contracts as defined in section 476-1, unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. Loans providing for repayment on demand may be contracted for, under this subsection and subject to a maturity date not later than six years from the date of the note. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment. Upon the maturity date of the contract, the rate of interest on the unpaid principal balance of the loan may be twelve per cent a year [or], the original contract rate of interest, or, in the case of any extension or deferral, the rate of interest permitted by this subsection on the amount extended or deferred, whichever is [greater.] greatest.
  - (2) For loans made or committed to after [[ May 31, 1980 ]] and prior to July 1, 1985, or made before May 31, 1980 and extended or deferred at maturity between May 31, 1980 and July 1, 1985, the maximum rate of interest permitted by this subsection shall be twenty-four per cent a year. This paragraph shall not apply to loans made or committed to prior to [[ May 31, 1980 ]], except loans made before May 31, 1980 and extended or deferred as provided in this paragraph.
  - (3) In addition to collecting interest at the rate established in paragraph (1) or (2) of this subsection, an industrial loan company may collect late

charges on delinquent installments. Except as otherwise provided in chapter 476, [relating to Retail Installment Sales,] late charges shall not exceed five per cent of each delinquent contractual installment or portion thereof which remains unpaid on the due date agreed upon in the contract or \$50, whichever is less. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. The company shall give the borrower written notice of the assessment of late charges prior to the due date of the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract.

(k) Acceleration of installments. An industrial loan company shall have the rights, in the event of default under a contract or open-end loan agreement, to declare the entire unpaid balance under the contract or open-end loan agreement due and payable, subject to the interest refund provisions of this section, if applicable, and to exercise any other rights in addition to such acceleration as provided in the contract or open-end loan agreement, including without limitation the right to stop payment of advances to or on behalf of a borrower in default under the contract or open-end loan agreement, provided such other rights are not in conflict with the other provisions of this chapter.

(l) Open-end loan. An industrial loan company shall also have power to make open-end loans subject to the following requirements:

(1) A licensee may not contract for and receive interest on an open-end loan in excess of that set forth in [subsection] paragraph (j)[.] (2) for loans made or committed to after May 31, 1980 and prior to July 1, 1985.

(2) A licensee shall not compound interest by adding any unpaid interest authorized by this subsection to the unpaid principal balance of the borrower's open-end loan account; provided that the unpaid principal balance may include the charges (other than interest) authorized by subsection (h).

(3) Interest authorized by this subsection shall be deemed not to exceed the maximum interest permitted by this section if such interest is computed for each billing cycle at [a monthly] an annual rate not to exceed that permitted in [subsection] paragraph (j)(2) for loans made or committed to after May 31, 1980 and prior to July 1, 1985 by any of the following methods:

(A) By converting the [monthly] annual rate to a daily rate and multiplying such daily rate by each daily unpaid principal balance of the open-end loan account in the billing cycle, and then adding the products of all such multiplications (in which case the daily rate is determined by [multiplying] dividing the authorized [monthly] annual rate [by 12 and dividing] by 365); or

(B) By multiplying the [monthly] annual rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle (in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle



- divided by the number of days in the cycle); or
- (C) By converting the [monthly] annual rate to a daily rate and multiplying such daily rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle, and then multiplying the product so obtained by the number of days in the billing cycle (in which case the daily rate is determined by [multiplying] dividing the authorized [monthly] annual rate [by 12 and dividing] by 365, and the average daily unpaid principal balance is the sum of the amounts unpaid for all days during the cycle divided by the number of days in the cycle); or
- (D) By converting the [monthly] annual rate to a daily rate by the method set forth in subparagraph (A) and multiplying such daily rate times the sum of all the daily unpaid principal balances of the open-end loan account during the billing cycle.
- (4) For all of the above methods of computation, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower and deducting all payments and other credits made or received that day.
- (5) A licensee may increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans, provided that with respect to open-end loans which are subject to the Federal Truth-in-Lending Act and the regulations of the Federal Reserve Board promulgated thereunder
- (i) that the licensee shall mail or deliver written notice of the change to the borrower at least 30 days prior to the effective date of the increase, unless the increase has been agreed to by the borrower, or the rate is increased as a result of the borrower's delinquency or default, and (ii) that the borrower may choose to terminate the open-end loan account, and the licensee will allow the borrower to repay, under the existing open-end loan account terms, the unpaid balance incurred prior to the effective date of the increase, unless the borrower incurs additional debt on or after that date or otherwise agrees to the increase.
- [(5)](6) The borrower may pay all or any part of the unpaid balance in the borrower's open-end loan account, or the borrower may pay the unpaid balance in periodic installments, subject to minimum payment requirements, date of maturity and other conditions as determined by the licensee and set forth in the open-end loan agreement.
- [(6)](7) A licensee may contract for and receive the fees, costs and expenses permitted under subsection (h).
- [(7)](8) If credit life or disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance as such rate may be approved by the insurance commissioner pursuant to chapter 435, to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in this subsection for the

calculation of loan interest. A licensee shall not be responsible for advancing premiums for credit life or disability insurance on a borrower who is delinquent in the making of the required minimum payments on the loan if one or more of such payments is past due for a period of ninety days or more; provided that the licensee shall advance to the insurer the amounts required to keep such insurance, if provided, in force during such ninety-day period, which amounts may be debited to the borrower's open-end loan account.

[(8)](9) A licensee, until the open-end loan account is terminated, may retain any security interest in real or personal property given to secure the open-end loan account. Upon such termination the licensee shall, within ten business days following receipt of written demand by the borrower, release the mortgage, security interest, pledge, or other security for the open-end loan. For the purposes of this paragraph, termination of the open-end loan account means the cancellation, rescission, or other cessation of the open-end loan account by mutual agreement where the borrower has paid all amounts owed on the open-end loan account and the borrower has complied with all the terms of the open-end loan agreement. Nothing in this paragraph shall preclude any licensee from exercising any other rights the licensee has to or in the security for open-end loans in the event of the borrower's default.

[(9)](10) If the open-end loan agreement is a retail installment contract, the licensee shall comply with the requirements of chapter 476."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved June 14, 1982.)

A Bill for an Act Relating to the Driver Improvement Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-108.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Every employer who employs any person as a regularly employed driver of motor vehicles listed in section 286-102(c), shall provide for every such driver employed by him a driver improvement program which shall include a system for continuous driver evaluation, annual driver safety courses approved by the state director of transportation, and such other activities as may be required by rules and regulations adopted by the state director of transportation pursuant to chapter 91. Every organization[, such as a union,] through which a driver of a motor vehicle listed in section 286-102(c) is employed on a casual or sporadic basis, and not as a regularly employed driver for any one employer, shall be responsible for providing the driver improvement program for all drivers who are hired for casual or sporadic

employment through the organization. An individual is casually or sporadically employed if he is temporarily engaged only for a particular job or project and not as a regular employee of the employer. Any employer or organization that violates this subsection shall be fined not more than \$500. Every regularly or casually employed driver of motor vehicles listed in section 286-102(c) shall attend the driver improvement program provided for him by his employer or organization. The director of transportation shall adopt rules pursuant to chapter 91 necessary for the purposes of this subsection, including but not limited to rules governing attendance. Any driver who does not fulfill the appropriate driver improvement attendance requirement shall be fined not more than \$100. For purposes of this subsection only, the word "organization" shall not include any labor union with a job placement center. A job placement center shall mean any system involving the registration of persons for purposes of employment, and the dispatching of these persons to various jobs as they become available."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 14, 1982.)

## ACT 249

H.B. NO. 3092-82

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The cornerstone of the foundation of our system of representative democracy is an election system in which the people can freely elect their representatives to reflect their will. An election system which is fair and equitable is one in which each citizen has an equal voice through elected representatives. In order to protect this fundamental right to vote and to ensure equal representation through fair elections, an effective reapportionment plan is essential. To achieve equal representation, the Constitution and laws of the State provide for reapportionment on a periodic basis and the appointment of commissions to devise valid reapportionment plans. The purpose of this Act is to allow reapportionment commissions to complete the important task of devising reapportionment plans.

SECTION 2. Section 25-1, Hawaii Revised Statutes, is amended to read as follows:

**"§25-1 Reapportionment commission.** A reapportionment commission shall be constituted after the third Wednesday of January but before March 1 of each reapportionment year, and, commencing with the 1981 reapportionment year, the members shall be appointed and certified to hold office<sup>1</sup> [for such term in the manner prescribed in Article IV of the Constitution.] until a general election is held under a reapportionment plan of the commission or a new commission is constituted under Article IV, section 2 of the State Constitution, whichever event shall first occur."

SECTION 3. Statutory material to be repealed is bracketed. New material is

underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1982.)

**Note**

1. Prior to amendment, this word was "offices."

A Bill for an Act Relating to the Aloha Tower Development Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 206J-2, Hawaii Revised Statutes, is amended by amending the definition of "project" to read:

"(5) "Project" means a public undertaking, improvement, or system consisting of a work or improvement including personal property or any interest therein, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, and including public facilities."

SECTION 2. Section 206J-3, Hawaii Revised Statutes, is amended to read:

"[[§206J-3]] **Aloha tower complex; designated boundaries.** Being portions of Honolulu Harbor (Governor's Executive Order No. 1793), Irwin Memorial Park (Governor's Executive Order No. 472), Fort Street and Ala Moana  
Being also portions of:

L.P. 8489 L.C.Aw. 11219 to the Hawaiian Government, Sea Boundary of "Kaakaukukui" R.P. 4483 L.C.Aw. 7712 Apana 6 No. 1 to M. Kekuanaoa no V. Kamamalu, R.P. 4532 L.C.Aw. 9971 Parts 1 and 2 to W.P. Leleiohoku and L.C.Aw. 784 Parts 1 and 2 to James Robinson,  
Exchange Deed: Minister of Interior to Samuel C. Allen dated December 21, 1897 and recorded in Liber 173, Pages 432-434,  
Grant 1753 No. 2 to William Miller,  
Land Court Application 787

Land situated at Kaakaukukui and Waikahalulu, Honolulu, Oahu, Hawaii

Beginning at the most Northerly corner of this piece of land, on the West side of the present Nimitz Highway (Honolulu-Pearl Harbor Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station "Punchbowl" being 1,160.55 feet South and 5,210.56 feet West, thence running by azimuths measured clockwise from true South:

- |    |          |  |
|----|----------|--|
| 1. | 6° 00'   | 1.45 feet along the West side of the present Nimitz Highway; |
| 2. | 276° 00' | 5.50 feet along same;  |
| 3. | 6° 00'   | 28.00 feet along same;                                       |
| 4. | 6° 00'   | 50.00 feet along same;                                       |
| 5. | 6° 00'   | 241.10 feet along same;                                      |
| 6. | 6° 00'   | 35.00 feet along same;                                       |

7. Thence along same on a curve to the right with a radius of 110.00 feet, the chord azimuth and distance being  
12° 20' 25" 24.30 feet;
8. Thence along same on a curve to the right with a radius of 60.66 feet, the chord azimuth and distance being  
26° 18' 40" 16.11 feet;
9. 59° 35' 22.85 feet along the Westerly side of the present Nimitz Highway;
10. 329° 35' 72.15 feet along same;
11. Thence along same on a curve to the right with a radius of 72.00 feet, the chord azimuth and distance being  
294° 10' 02" 83.45 feet;
12. 329° 35' 226.07 feet along the Westerly side of the present Nimitz Highway;
13. Thence along same on a curve to the right with a radius of 72.29 feet, the chord azimuth and distance being  
11° 12' 30" 96.04 feet;
14. 52° 50' 120.37 feet along the Northerly side of Bishop Street;
15. 52° 50' 69.73 feet along same;
16. 52° 50' 110.32 feet across Ala Moana;
17. 149° 35' 29.33 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793), the true azimuths and distances to a "+" cut on concrete (found and adopted) being (a)  
149° 35' 2.36 feet and (b)  
239° 35' 2.00 feet;
18. 59° 34' 594.52 feet along same;
19. Thence along same on a curve to the right with a radius of 12.98 feet, the chord azimuth and distance being  
116° 17' 45" 21.70 feet;
20. 173° 01' 30" 608.15 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793);
21. 228° 25' 495.96 feet along same;
22. 318° 25' 0.94 of a foot along same;
23. 228° [[25']] 459.72 feet along same to the point of beginning and containing an area of 567,442 square feet or 13.027 acres.

Vehicle access shall not be permitted into and from Nimitz Highway (Honolulu-Pearl Harbor Road) and Bishop Street, over and across Courses 1, 2, 3, 5, 8, 9, 11, 12, 13, and 14 of the above described Aloha Tower [Plaza.] complex."

SECTION 3. Section 206J-5, Hawaii Revised Statutes, is amended to read:  
"[[§206J-5]] **Powers; generally.** (a) The development corporation shall have all the powers necessary to carry out its purposes, including the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at its pleasure;

- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To adopt rules under chapter 91 necessary to effectuate this chapter in connection with its projects, operations, properties, and facilities;
- (6) Through its chief executive officer, to appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, consistent with chapters 76 and 77;
- (7) To prepare or cause to be prepared a development plan for the Aloha Tower complex, incorporating the needs of the department of transportation;
- (8) To own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property and to assign, exchange, transfer, convey, lease, sublease, or encumber any project or improvement, including easements, constituting part of a project within the Aloha Tower complex, except that required for necessary maritime purposes;
- (9) By itself, or in partnership with qualified persons, to construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; to own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any project;
- (10) To arrange or initiate appropriate action for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, easements, or other places, the furnishing of facilities, the acquisition of property or property rights, or the furnishing of property or services in connection with a project;
- (11) To grant options or renew any lease entered into by it in connection with any project, on terms and conditions as it deems advisable;
- (12[.]) To prepare or cause to be prepared plans, specifications, designs, and estimates of project cost for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, designs, or estimates;
- (13) To provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (14) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
- (15) To contract for and accept gifts or grants in any form from any public agency or from any other source;
- (16) [Pledge] To pledge or assign all or any part of the moneys, rents, charges, or other revenues and any proceeds derived by the develop-

ment corporation from proceeds of insurance or condemnation awards, less guarantees to the harbor special fund for the loss of revenues or incurrence of costs and expenses because of any action taken by the development corporation; and

- (17) [Issue] To issue bonds of the development corporation for the purpose of providing funds for any of its corporate purposes[.];

(b) The development corporation shall impose, prescribe [under chapter 91], and collect rates, rentals, fees, or charges for the lease and use and services of its projects[.] at least sufficient to pay the costs of operation, maintenance and repair, if any, of its projects and the required payments of the principal of and interest on all bonds issued to finance its projects."

SECTION 4. Section 206J-6, Hawaii Revised Statutes, is amended to read:

**"§206J-6 Limitations on the powers of the developmental corporation.** (a) The development corporation shall not sell any fast or submerged lands of the Aloha Tower complex as established by this chapter.

(b) The development corporation shall preserve the Aloha Tower as an historical monument and shall not sell, remove, demolish, deface, or alter the structure in any reasonable degree to lessen its historical value to the community. However, repairs, maintenance, or any essential reconstruction necessary for the preservation of the Aloha Tower as an historical monument shall be permissible.

(c) Irwin Memorial Park shall be retained as a public park subject to the reservations and conditions set forth in the deed of Helene Irwin Fagan to the Territory of Hawaii.

(d) The development corporation or its lessees shall not exercise any jurisdiction over the provided replacement facilities located within the [project,] Aloha Tower complex required for necessary maritime purposes and activities[; jurisdiction]. Jurisdiction over [the] any such replacement facilities shall be in the department of transportation."

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

**"[§206J-7] Development rules.** The development corporation shall adopt rules under chapter 91 to be followed during the course of the development of the [project,] Aloha Tower complex, which are to be known as development rules in connection with health, safety, building, planning, zoning, and land use, which, upon final adoption of a development plan for the Aloha Tower complex, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon within the Aloha Tower complex. Rules adopted under this section shall be adopted under chapter 91 and shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The rules shall also insure that necessary maritime activities are not impaired."

SECTION 6. Section 206J-12, Hawaii Revised Statutes, is amended to read:

**"[§206J-12] Bonds; bonds anticipation notes.** (a) The development corporation, with the approval of the governor, may issue bonds in such amounts as authorized from time to time by law and as deemed advisable for any of its corporate purposes. The principal of, premium, if any, and interest on such bonds shall

be payable; except as limited by section 206J-5(16):], subject to the prior payment to the harbor special fund for the loss of revenues or incurrence of costs and expenses because of any action taken by the development corporation or of any rent payable to the department of transportation for the lease of properties within the Aloha Tower complex:

- (1) Exclusively from the moneys derived from rates, rentals, fees, and charges of the project financed with the proceeds of such bonds[,] imposed under section 206J-5(b), or from such moneys together with any grant from the government in aid of such project; or
- (2) Exclusively from the moneys derived from rates, rentals, fees, and charges of certain designated projects[,] imposed under section 206J-5(b), whether or not they are financed in whole or in part with the proceeds of the bonds; or
- (3) From the<sup>1</sup> moneys derived from rates, rentals, fees, and charges imposed under section 206J-5(b), generally.

The bonds shall be secured by a pledge of such [revenue] moneys and may be additionally secured by a mortgage of any project or other property of the development corporation to the extent of its interest therein. Neither the [[]board members[[]] nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(b) Bonds issued pursuant to this chapter may be in one or more issues and in one or more series within an issue and shall be authorized pursuant to resolution of the board. The bonds shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority, and may be made redeemable before maturity at the option of the development corporation, at such price or prices and under such terms and conditions, all as may be determined by the development corporation. The development corporation shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and, subject to the approval of the state director of finance, the place or places of payment of principal and interest, which may be at any bank or trust company approved by the state director of finance within or without the State. The bonds may be issued in coupon or in registered form, or both, as the development corporation may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The development corporation may sell bonds in such manner, either at public or private sale, and for such price as it may determine.

(c) Prior to the preparation of definitive bonds, the development corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(d) Should any bond issued under this chapter or any coupon appertaining thereto become [mutliated] mutilated or be lost, stolen, or destroyed, the development corporation may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancel-



lation of such mutilated bond or coupon, or in lieu of and in substitution for, such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon [has] (1) has paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the development corporation or its fiduciary evidence satisfactory to [such] the development corporation or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the development corporation.

(e) The development corporation in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the development corporation or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds by reason of such numbers or any use made thereof, including any use thereof made by the development corporation, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The development corporation in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

(f) Whenever the development corporation has authorized the issuance of bonds under this chapter, bond anticipation notes of the development corporation may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All bond anticipation notes shall be authorized by the development corporation, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the bonds in anticipation of which the notes are issued and the moneys, rates, charges, and other revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds that has been authorized in anticipation of which the notes are issued shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by this chapter with respect to bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this subsection shall mature within five years from the date of the original note.

(g) In order to secure the payment of any of the bonds issued pursuant to this chapter, and interest thereon, or in connection with such bonds, the development corporation shall have the power as to such bonds:

- (1) To pledge all or any part of the moneys, rates, charges, and other revenues derived by the development corporation as provided in this chapter to the punctual payment of bonds and interest thereon, and to

covenant against thereafter pledging any such moneys, notes, charges, and other revenues to any other bonds or any other obligations of the development corporation for any other purpose, except as otherwise stated in the proceedings providing for the issuance of bonds permitting the issuance of additional bonds to be equally and ratably secured by a lien upon such moneys, rates, charges, and other revenues.

- (2) To pledge and assign the interest of the development corporation under any lease and other agreements related to a project and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default", the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (7) Subject to the approval of the state director of finance, to designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the bonds and to enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee. The trustee may be authorized by the development corporation to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the same to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the moneys, rents, charges, and other revenues derived by the development corporation under a lease or other agreement related to a project, and to apply such moneys, rents, charges, and other revenues to the payment of the principal of and interest on such bonds, or both, and any excess moneys, rents, charges, and other revenues to the payment of expenses incurred by the development corporation in administering such bonds or in carrying out such lease or other agreement. In the event that such trustee shall be appointed, any trust indenture, trust agreement, or indenture of mortgage entered into by the development corporation with the trustee may contain whatever covenants and provisions as may be necessary, convenient, or desirable in order to secure such bonds. The development corporation may pledge and assign to the trustee the interest of the development corporation under a lease and other agreements related to a project and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues thereunder. The development corporation may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the

bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the development corporation may deem necessary, advisable, or expedient, including without limitation the holding of the bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary, [or] convenient, or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated in this chapter.

No holder or holders of any bonds issued under this chapter shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof.

(h) Bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the development corporation. The bonds shall contain a recital that they are issued pursuant to this chapter which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(i) The development corporation may issue bonds for the purpose of refunding any bonds then outstanding and issued under this chapter whether or not such outstanding bonds have matured or are then subject to redemption. The development corporation may issue bonds for the combined purposes of (1) financing or refinancing the cost of a project, improvement, or expansion thereof, and (2) refunding bonds which shall theretofore have been issued under this chapter and shall then be outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. Nothing in this subsection shall require or be deemed to require the development corporation to elect to redeem or prepay bonds being refunded, or to redeem or prepay bonds being refunded which were issued, in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any proceedings authorizing the issuance thereof, or, in the event the development corporation elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the development corporation with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as the same may be applicable.”

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 to be paid into the Aloha Tower Fund created by Section 206J-17, Hawaii Revised Statutes. The sum appropriated by this Act shall be expended by the Aloha Tower Development Corporation for the purposes of

the Aloha Tower Fund and any balance remaining as of June 30, 1985 shall lapse into the state general fund.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. This Act shall take effect on July 1, 1982.

(Approved June 14, 1982.)

**Note**

- 1. Prior to amendment, the word "its" appeared here instead of "the".

**ACT 251**

S.B. NO. 2147-82

A Bill for an Act Relating to Traffic Violations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-4, Hawaii Revised Statutes, is amended to read as follows:

**“§291-4 Driving under influence of intoxicating liquor. (a) Whoever operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor shall be [fined not more than \$1,000 or imprisoned not more than one year, or both.] sentenced as follows without possibility of probation or suspension of sentence:**

- (1) For a first offense, or any offense not preceded within a four-year period by a conviction under this section, by:**
  - (A) A fourteen-hour minimum alcohol abuse rehabilitation program including education and counseling, or other comparable program deemed appropriate by the court; and**
  - (B) Any two of the following:**
    - (I) Seventy-two hours of community service work;**
    - (II) Thirty-day suspension of license;**
    - (III) Forty-eight hours of imprisonment;**
- (2) For an offense which occurs within four years of a prior conviction under this section, by any two of the following:**
  - (A) A fine of not less than \$250 but not more than \$1,000 or not less than 72 hours but not more than 150 hours of community service work;**
  - (B) Ninety-day suspension of license;**
  - (C) Not less than two days but not more than ten days of imprisonment;**
- (3) For an offense which occurs within four years of two prior convictions under this section, by:**
  - (A) A fine of not less than \$500 but not more than \$1,000; and**
  - (B) Revocation of license for a period not less than one year but not**

more than five years; and

(C) Not less than 10 days but not more than 180 days imprisonment.

(b) Notwithstanding any other law to the contrary, whenever a court revokes a person's driver's license pursuant to the provisions of this section, the examiner of drivers shall not grant to such person an application for a new driver's license for such period as specified by the court.

(c) As used in this section the terms "driver," "driver's license," "examiner of drivers," and "vehicle" shall have the same meanings as provided in section 286-2."

SECTION 2. Section 286-126, Hawaii Revised Statutes, is amended to read as follows:

**"§286-126 Period of suspension or revocation.** [A] Unless otherwise provided by law, a court of competent jurisdiction shall not suspend a license for a longer period than one year; and when a court has revoked a license, the examiner of drivers shall not in any event grant an application for new license until the expiration of one year after the date of the revocation."

SECTION 3. Section 286-130, Hawaii Revised Statutes, is amended to read as follows:

**"§286-130 No operation under foreign license during revocation or suspension in this State.** Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked [as provided in this part] shall not operate a motor vehicle in this State under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license issued by the examiner of drivers is obtained when and as permitted [under this part.] by law.

SECTION 4. Section 286-132, Hawaii Revised Statutes, is amended to read as follows:

**"§286-132 Driving while license suspended or revoked; penalty.** Any person whose driver's license, or driving privilege as a nonresident has been canceled, suspended, or revoked [as provided in this part], and who drives any motor vehicle upon the highways of this State while such license or privilege remains canceled, suspended, or revoked, shall be fined not less than [~~\$25 nor~~] \$250 but not more than \$1,000 or imprisoned not more than one year."

SECTION 5. Section 286-155, Hawaii Revised Statutes, is amended to read as follows:

**"§286-155 Revocation of privilege to drive motor vehicle upon refusal to submit to testing.** (a) If a person under arrest refuses to submit to a breath or blood test, none shall be given, except as provided in section 286-163, but the arresting officer shall, as soon as practicable, submit an affidavit to a district judge of the circuit in which the arrest was made, stating:

- (1) That at the time of the arrest, the arresting officer had reasonable grounds to believe the arrested person had either been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor;
- (2) That the arrested person had been informed of the sanctions of this section; and

(3) That the person had refused to submit to a breath or blood test.

(b) Upon receipt of the affidavit, the district judge shall hold a hearing as provided in section 286-156, and shall determine whether the statements contained in the affidavit are true and correct. If the district judge finds the statements contained in the affidavit are true, the judge shall revoke the arrested person's license, permit, or any nonresident operating privilege for a period of [six] twelve months.

(c) If the arrested person is a resident without a license or permit to operate a motor vehicle in the State, the district judge shall send notice of the results of the hearing to the examiners of drivers of all counties. The examiners of drivers shall deny the person the issuance of a license or permit for the period of [six] twelve months.

The penalties provided by this section are additional penalties and not substitutes for other penalties provided by law."

SECTION 6. This Act does not affect rights which matured, penalties which were incurred, or proceedings which were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval. Any conviction prior to the effective date shall not be a prior conviction under this Act.

(Approved June 15, 1982.)

ACT 252

S.B. NO. 2978-82

A Bill for an Act Relating to the Hawaii Cancer Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that over one-quarter of the American population will develop some form of cancer in their lifetime and one in five will die from it. Today, cancer is the second leading cause of death among Americans and in Hawaii approximately 1,000 residents die from various forms of cancer each year.

The legislature further finds that new developments in cancer research and anti-cancer agents in recent years offer great hope for cancer victims in the 1980's. One anti-cancer agent which appears promising is the virus-fighting substance called interferon, a biological response modifier. Impure samples of interferon reportedly have provided protection against most kinds of viruses and have been somewhat successful against animal tumors and some human cancers, including those of the breast, colon, prostate, and lymph system. Clinical trials indicate that in certain cases, partial responses and regressions have resulted from its use.

Two major effects which make interferon or biological response modifiers a candidate for antitumor activity is the inhibition of rapidly proliferating cells on the one hand and the enhancement of certain specialized cellular or immune function such as tumor cell killing. Natural killer cells are a newly described subset of lymphocyte which are increasingly implicated to play an important role in our body's defense against cancer and virus. Interferon has been shown to stimulate the

activity of natural killer cells and other effector cells.

The legislature further finds that natural interferon is painstakingly produced from the culture of living cells and, therefore, is in short supply and expensive. A course of treatment with interferon reportedly costs over \$30,000 for a single person.

More recently, recombinant interferon has been synthesized in *E. coli* bacteria using recombinant DNA technology. The natural and recombinant interferons are currently undergoing clinical trials. Such interferon is available only on a limited clinical research basis and would be less expensive than natural interferon when available. Treatment at the present time, therefore, is beyond the means of most cancer patients.

The legislature further finds that to the family of an individual afflicted with cancer, it is one of the most terrifying diseases. It not only destroys people, but also destroys entire families. In many cases, standard cancer treatments have been ineffective and cancer patients have found no other recourse and have lost all hope of surviving. While cognizant of the fact that interferon treatment is a recent development in the treatment of cancer, the legislature nevertheless firmly believes that it is in the interest and the responsibility of the State that treatment options be made available to victims of this devastating disease. Major pharmaceutical companies have undertaken millions of dollars of expenditures on interferon because of its promising effects. The legislature believes that interferon treatment offers cancer patients a viable treatment option and renewed hope.

The purpose of this Act is to provide for research and development of a clinical interferon-biological response modifier program for the patients of the State of Hawaii. This Act will provide a mechanism for the research and development, acquisition, and dispensing of natural or recombinant interferon, interferon inducers, as well as developing biological response modifiers in the treatment of selected patients with cancer and microbial diseases. Research in the immunobiology of the natural killer cell-interferon system shall be included in the interferon-biological response modifier clinical studies with patients. The effectiveness of therapy with interferon-biological response modifiers will be monitored through research on the activity of natural killer cells and other effector cells of the immune system.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as many be necessary for fiscal year 1982-1983, to provide a grant-in-aid to the Hawaii Cancer Commission of the Hawaii Medical Association for the purposes of receiving and expending funds for the research and development of a clinical interferon-biological response modifier program and for the acquisition and dispensing of the anti-viral agent, interferon, and other biological response modifiers. No funds shall be made available under this Act unless and until three lay members representing the general public have been selected by the governor, in consultation with the director of health, and have been included as members on the Hawaii Cancer Commission of the Hawaii Medical Association for the purposes of representing the public interest in the expenditure of the funds herein appropriated. The governor shall so select within fifteen days after receipt from the commission of a written request for the names of

the three lay members to be included as members of the commission. The commission shall submit an annual report to the governor and the legislature twenty days prior to the convening of the 1983, 1984, and 1985 sessions of the legislature.

SECTION 3. The sum appropriated shall be expended by the department of health for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1985 shall lapse into the general fund.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 15, 1982.)

ACT 253

S.B. NO. 544

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-5, Hawaii Revised Statutes, is amended to read as follows:

“§237-5 “**Producer**” defined. “Producer” means any person engaged in the business of raising and producing agricultural, animal, poultry products in their natural state, or in producing natural resource products, or engaged in the business of fishing[,] or aquaculture, for sale, or for shipment or transportation out of the State, of the agricultural, aquaculture, animal, or poultry products in their natural or processed state, or butchered and dressed, or the natural resource products, or fish.”

SECTION 2. Section 237-4, Hawaii Revised Statutes, is amended to read as follows:

“§237-4 “**Wholesaler**”, “**jobber**”, defined. “Wholesaler” or “jobber” applies only to a person making sales at wholesale. Only the following are sales at wholesale:

- (1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
- (2) Sales to a licensed manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer;
- (3) Sales to a licensed agricultural or aquacultural producer or agricultural or aquacultural cooperative association of materials or commodities which are to be incorporated by the producer or by the cooperative association into a finished or saleable product which is to be sold and not otherwise used by the producer or cooperative



association, including specifically materials or commodities expended as essential to the planting, growth, nurturing, and production of agricultural or aquacultural commodities which are sold by the producer or by the cooperative association;

- [(3)] (4) Sales to a licensed contractor, of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses;
- [(4)] (5) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to such producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) [of this section] or for the purpose of breeding, hatching, milking, or egg laying other than for the customer's own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by him as part to be butchered or to a cooperative association described in section 237-23(a)(9) of such licensed producers shall be deemed to be a sale at wholesale; and provided further that any amount derived from the furnishing of feed lot services, other than the segregated cost of feed, shall be deemed taxable at the service business rate. This paragraph [(4)] shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;
- [(5)] (6) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to the producer, of seed for producing agricultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural products or fish are to be disposed of as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) [of this section];
- [(6)] (7) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to such producer; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2) [of this section];
- [(7)] (8) Sales of tangible personal property to a licensed person engaged in the service business[.]; provided that [(1)] (A) the property is not consumed or incidental to the performance of the services; [(2)] (B) there is a resale of the article at the retail rate of four per cent; and [(3)] (C) the resale of the article is separately charged or billed by the person

rendering the services;

- [(8)] (9) Sales to a licensed leasing company which leases capital goods as a service to others. As used in this paragraph capital goods are goods which have a depreciable life of more than three years.

If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining "wholesaler" or "jobber"): "Wholesaler" or "jobber" means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service which buys and maintains at his or its place of business a stock or lines of merchandise which he or it distributes; and which, through salesmen, advertising, or sales promotion devices, sells to licensed retailers, to institutional or licensed commercial or industrial users, in wholesale quantities and at wholesale rates. A corporation deemed not to be carrying on a trade or business in this State under section 235-6 shall nevertheless be deemed to be a wholesaler and shall be subject to the tax imposed by this chapter."

SECTION 3. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1982, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 237-4, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1982.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect on January 1, 1983.

(Approved June 16, 1982.)

A Bill for an Act Relating to Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that besides the large sugar plantations dating back many decades, that a number of small independent sugar growers exist in the State. These independent growers are often too small to have sufficient capital reserves to weather the large-scale adverse effects of the international sugar market we have been experiencing lately.

In the past, the problems, during such adverse periods, of the independent growers have been very positively addressed by special loan programs through the state department of agriculture. The Honorable Jack K. Suwa, Chairman of the State Board of Agriculture, recently stated that "this program has proven to be very effective in supporting the independent sugar growers during the difficult years". In his summary of the program, Chairman Suwa noted that Act 19, from the 1977 Special Session of the legislature, appropriated \$1,500,000 in loan funds. An addi-

tional \$750,000 was added by Act 189 of the 1978 session, and the final \$3,200,000 was added by Act 178 from the 1979 session. This totaled \$5,450,000 in appropriated loan funds for the program.

Some 952 loans were authorized under the program, totaling \$5,202,644 in principal, leaving an appropriation balance of \$247,356.

Of this \$5,202,644 loaned out, some \$1,900,222 in principal has been repaid, which represents 528 of the 952 loans repaid in full. Portions of 424 loans remain outstanding, with a principal amount of \$3,302,422. One loan, of \$2,000,000 to Mauna Kea Sugar is due December 1982, leaving the smaller portion of amounts due (\$1,302,422) representing the remaining 423 small independent grower loans.

Chairman Suwa has recommended that the existing acts and the remaining appropriated balance be allowed to lapse, and a new bill be introduced with an appropriation of \$2,000,000 for loans to independent sugar growers, with an effective date upon approval. This is the purpose of this Act.

SECTION 2. Act 19, Sections 2 and 3, Special Session Laws of Hawaii 1977; Act 189, Session Laws of Hawaii 1978; and Act 178, Session Laws of Hawaii 1979; are repealed. Any funds appropriated in such Acts and unencumbered shall lapse into the general fund.

SECTION 3. Chapter 155, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read:

**“§155- Loans to independent sugar growers.** (a) In addition to any loans authorized under this chapter, the department of agriculture shall make loans to independent sugar growers as provided in this section.

(b) As used in this section, “independent sugar growers” means a grower of raw sugar, testing 96 sugar degrees by the polariscope, determined in accordance with regulations of the United States Department of Agriculture; provided that this term shall not include any producer of sugar, other than as a member of a processing cooperative, who processes the producer’s own sugarcane and the grower’s production of raw sugar does not exceed 4,500 tons per year.

(c) The department of agriculture shall make loans to independent sugar growers under this section at an interest rate not to exceed two per cent a year for which no collateral shall be required and there shall be no limit on the amount of a loan to the independent sugar growers as defined in this section. The loans shall be made to independent sugar growers upon such terms as provided by existing rules adopted under Act 19, Session Laws of Hawaii, First Special Session 1977, until the amendment or repeal of the rules by the department of agriculture and the adoption of new rules by the department of agriculture under chapter 91. The loans shall be administered by the agricultural loan division of the department of agriculture.

(d) In making rules and loans to the department of agriculture shall follow the intent of the legislature that loans made under this section are to assist independent sugar growers with supplemental direct loans to cover deficits through the time period in which there are insufficient national protections concerning sugar importation. The term deficit as used in this subsection shall include:

- (1) Any shortages for repayment of loans made by commercial lending institutions for crop production expenses which shall be repaid from revenues of sugar crop harvest; and

(2) That portion of the total loan required for production expenses, but which amount is not available from commercial lending institutions without requiring collateral other than the crop itself, for crop plantings.

(e) Loans under this section shall be limited to cover either deficits on repayment of production loans and loans required for production expenses described in subsection (d) as deficits.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000, or so much thereof as may be necessary for fiscal year 1982-1983 for the purpose of making farm loans to independent sugar growers as provided in section 3 of this Act. All sums appropriated under this section which are not expended or encumbered twenty-four months after July 1, 1982, shall lapse into the general fund. The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

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

(Approved June 16, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 255**

**H.B. NO. 2336-82**

**A Bill for an Act Making an Appropriation for Sugar Research and Development.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic base. This industry occupies approximately 215,000 acres of land and employs nearly 9,000 employees with an annual payroll that exceeds \$142 million a year. The legislature further finds that the adverse effects of losing this industry would be catastrophic to the State. The legislature also finds that the sugar industry is currently experiencing adverse economic conditions, that it is in the public interest to assist and save the sugar industry, and that the College of Tropical Agriculture and Human Resources, University of Hawaii, with the full participation of all segments of the sugar industry, is in the process of preparing an updated sugar industry analysis for presentation to the governor's agriculture coordinating committee. The analysis will identify all of the areas of research required by the industry to increase yields and to reduce the costs of production. This analysis will also identify problems associated with soil characteristics, climate, and temperatures which are unique to the lands cultivated by particular sugar companies.

The purpose of this Act is to provide funds for research identified by the aforementioned updated industry analysis.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000, or so much thereof as may be necessary for fiscal year 1982-1983, for sugar research and development as identified in section 1 of this

Act; provided that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides a dollar for dollar match of funds for the purpose for which this sum is appropriated.

SECTION 3. The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1982.)

## ACT 256

H.B. NO. 2377-82

A Bill for an Act Relating to the Hawaii Right to Farm Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### “CHAPTER HAWAII RIGHT TO FARM ACT

§ -1 **Findings and purpose.** The legislature finds that when nonagricultural land uses extend into agricultural areas, farming operations often become the subject of nuisance lawsuits which may result in the premature removal of lands from agricultural use and discourages future investments in agriculture. The legislature also finds that under the Hawaii State Planning Act, it is a declared policy of this State to “foster attitudes and activities conducive to maintaining agriculture as a major sector of Hawaii’s economy.” Accordingly, it is the purpose of this chapter to reduce the loss to the State of its agricultural resources by limiting the circumstances under which farming operations may be deemed to be a nuisance.

§ -2 **Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) “Farming operation” means a commercial agricultural or aquacultural facility or pursuit in an area zoned by the county for agricultural use, including the care and production of livestock and livestock products, poultry and poultry products, and apiary, horticultural or floricultural products; the planting, cultivating, and harvesting and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment;
- (2) “Nuisance” means any interference with reasonable use and enjoyment of land, including but not limited to smoke, odors, dust, noise, or vibration; provided that nothing in this chapter shall in any way restrict or impede the authority of the State to protect the public health, safety, and welfare.
- (3) “Established date of operation” means the date on which the farming operation commenced operation. If the physical facilities of the farming operation are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent estab-

lished date of operation established as of the date of commencement of the expanded operation, and the commencement of the expanded operation shall not divest the farming operation of a previously established date of operation.

§ -3 **Declaration of public purpose.** The preservation and promotion of farming is declared to be in the public purpose and deserving of public support.

§ -4 **Right to farm.** No court, official, public servant, or public employee shall declare any farming operation a nuisance for any reason if the following have been proven:

- (1) That the farming operation was not in violation of this section at its established date of operation;
- (2) That the stated or implied basis for the nuisance complaint is that conditions have changed in the vicinity of the farming operation since its established date of operation;
- (3) That the farm operation was lawfully in operation for at least one year prior to the nuisance complaint;
- (4) That the alleged nuisance did not result from the negligent conduct or improper operation of the farming operation; or from any aspect of said operation which is determined to be injurious to public health or safety; and
- (5) That the alleged nuisance does not involve water pollution or flooding.”

SECTION 3.<sup>1</sup> This Act shall take effect upon its approval.

(Approved June 16, 1982.)

**Note**

- 1. Should be SECTION 2.

A Bill for an Act Relating to Agricultural Coop Association.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 421-11, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Net [margin] margins in excess of dividends and additions to reserves and excess shall be distributed [to members and nonmembers] on the basis of patronage, and [the] if the bylaws so provide, distribution of such net margins may be restricted to members or may be made at the same or different rate for members and nonmembers. The books of the association shall show the interest of members and nonmembers in the reserves and excess. The bylaws may provide that any distribution to a nonmember, eligible for membership, may be credited to the nonmember until the amount thereof equals the value of a membership certificate or a share of the association’s common stock. The distribution credited to the account of a nonmember may be transferred to the reserve fund at the option of the board if, after two years, the amount is less than the value of the membership certificate or a share of common stock.”

SECTION 2. Section 421-9, Hawaii Revised Statutes, is amended to read as follows:

**“§421-9 Powers.** (a) An association formed under this chapter, or an association which might be formed under this chapter and which existed at the time this chapter took effect, shall have the capacity to act possessed by natural persons, but the association shall have the authority to perform only such acts as are necessary or proper to accomplish the purposes as set forth in its articles and which are not repugnant to law.

(b) Without limiting or enlarging the grant of authority contained in subsection (a), every association shall have authority:

- (1) To act as agent, broker, or attorney in fact for its members, and for any subsidiary or affiliated association, and otherwise to assist or join with associations engaged in any one or more of the activities authorized by its articles, and to hold title for its members and for subsidiary and affiliated associations to property handled or managed by the association on their behalf.
- (2) To make contracts, and to exercise by its board or duly authorized officers or agents, all such incidental powers as may be necessary, suitable, or proper for the accomplishment of the purposes of the association and not inconsistent with law or its articles, and that may be conducive to or expedient for the interest or benefit of the association.
- (3) To make loans or advances to members or producer-patrons or to the members of an association which is itself a member or subsidiary thereof; to purchase or otherwise acquire, endorse, discount, or sell any evidence of debt, obligation, or security, but it shall not engage in banking.
- (4) To establish and accumulate reserves to capital.
- (5) To own and hold membership in or shares of the capital stock of other associations and corporations and the bonds or other obligations thereof, engaged in any related activity; or, in producing, warehousing, or marketing any of the products handled by the association; or, in financing its activities, and while the owner thereof, to exercise all the rights of ownership, including the right to vote thereon.
- (6) To acquire, hold, sell, dispose of, pledge, or mortgage, any property which its purposes may require, subject to any limitation prescribed by law or its articles.
- (7) To borrow money and to give its notes, bonds, or other obligations therefor and secure the payment thereof by mortgage or pledge.
- (8) To deal in agricultural products and handle agricultural machinery, equipment, and supplies, and perform services for nonmembers to an amount not greater in annual value than such as are dealt in, handled, or performed for or on behalf of its members.
- (9) To have a corporate seal and to alter it at pleasure.
- (10) To continue as a corporation for the time limit in its articles, which may be perpetual.
- (11) To sue and be sued in its corporate name.
- (12) To conduct business in this State and elsewhere as may be permitted by

law.

(13) To dissolve and wind up its affairs.

(14) To charge differential rates on the sale of its goods and services to members and nonmembers, as provided for in its bylaws."

SECTION 3. Section 421-1, Hawaii Revised Statutes, is amended to read as follows:

**"§421-1 Definitions.** As used in this chapter, unless the context or subject matter requires otherwise:

- (1) "Agricultural products" includes floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, and any farm or plantation products.
- [(2) "Association" means any corporation organized under this chapter for the mutual benefit of its members, as agricultural producers, and which confines its operations to purposes authorized by this chapter and restricts the return on the stock or membership capital and the amount of its business with nonmembers to the limits placed thereon by this chapter for associations organized hereunder.
- (3) "Domestic association" means an association or corporation formed under the laws of the State.
- (4) Association shall be classified as and deemed to be nonprofit corporations, inasmuch as their primary object is not to pay dividends on invested capital, but to render service and provide means and facilities by or through which the producers of agricultural products may receive a reasonable and fair return for their products.
- (5) "Member" includes the holder of a membership in an association without capital stock or the holder of common stock in association organized with capital stock.
- (6) "Person" includes individuals, partnerships, corporations, and associations.
- (7) "Board" means the board of directors.
- (8) "Articles" means the articles of association.]
- (2) "Articles" means the articles of association.
- (3) "Association" means any corporation organized under this chapter for the mutual benefit of its members, as agricultural producers, and which confines its operations to purposes authorized by this chapter and restricts the return on the stock or membership capital and the amount of its business with nonmembers to the limits placed thereon by this chapter for associations organized hereunder. Association shall be classified as and deemed to be nonprofit corporations, inasmuch as their primary object is not to pay dividends on invested capital, but to render service and provide means and facilities by or through which the producers of agricultural products may receive a reasonable and fair return for their products.
- (4) "Board" means the board of directors.
- (5) "Domestic association" means an association or corporation formed under the laws of the State.
- (6) "Member" includes the holder of a membership in an association



without capital stock or the holder of common stock in association organized with capital stock.

- (7) "Membership capital" means that capital paid to a nonstock association by a member in order to be a member and have the rights of membership in the association.
- (8) "Person" includes individuals, partnerships, corporations, and associations."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 16, 1982.)

ACT 258

H.B. NO. 2408-82

A Bill for an Act Relating to Credit Unions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to support the chartering of credit unions in the State of Hawaii. Credit unions are cooperatively-owned financial institutions which provide financial services to their members and share the management and profits among their members.

The legislature notes that chapter 410, Hawaii Revised Statutes, enacted in 1973 as the "Hawaii Credit Union Act", provides for the chartering of state credit unions but has never been utilized by any credit union yet. All but three state-chartered credit unions currently operating in the State have been chartered under the federal Credit Union Act. Hawaii lacked enabling legislation prior to 1973, and since then, the rapid changes in the American financial world, especially in federal financial laws and regulations, have made chapter 410, Hawaii Revised Statutes, outdated almost since its inception.

The purpose of this Act is to amend chapter 410, Hawaii Revised Statutes, to conform the Hawaii Credit Union Act to the Federal Credit Union Act.

SECTION 2. Chapter 410, Hawaii Revised Statutes, is amended as follows:

1. By adding four new sections to be appropriately designated and to read as follows:

**"§410- Conflict of interest.** No director, committee member, officer, agent, or employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation or the determination of any matter affecting such person's monetary interest or the monetary interest of any corporation, partnership, or association (other than the credit union) in which such person is directly or indirectly interested.

**§410- Suspension.** (a) If it appears that any credit union:

- (1) Is conducting its business contrary to any law;
- (2) Has violated its charter or this chapter;
- (3) Is conducting its business in an unauthorized or unsafe manner;
- (4) Is in an unsound or unsafe condition to transact its business;

- (5) Has an impairment of its capital;
- (6) Is unable to continue its business with safety and expediency;
- (7) Has suspended payment of its obligations;
- (8) Has neglected or refused to comply with the terms of a duly issued order of the commissioner;
- (9) Has refused to submit its books, papers, records, or affairs for inspection to any examiner or person appointed by the commissioner; or
- (10) Has refused to be examined upon oath regarding its affairs;

then, the commissioner may issue an order temporarily suspending the credit union's operations for a period of at least thirty but not more than sixty days. The board of directors shall be given notice by registered mail of such suspension. The notice shall include a list of the reasons for the suspension, or a list of the specific violations of this chapter, or both. The commissioner shall also notify any government agency or other organization insuring the accounts of the credit union and the credit union review board of the suspension.

(b) Upon receipt of the suspension notice, the credit union shall cease all operations, except those authorized by the commissioner. The board of directors may:

- (1) File with the commissioner a reply to the suspension notice, and request a hearing to present a plan of corrective actions. Upon receiving evidence that the conditions causing the suspension have been corrected, the commissioner may revoke the suspension notice, permit the credit union to resume normal operations, and notify any interested insuring agency and the credit union review board of such action. If the commissioner, after issuing the notice of suspension, rejects the credit union's plan to continue operations, the commissioner may issue a notice of involuntary liquidation and appoint a liquidating agent. Involuntary liquidation may not be ordered prior to the conclusion of suspension procedures provided in this section;
- (2) Request that the credit union be declared insolvent and a liquidating agent be appointed; or
- (3) Appeal to the credit union review board not later than ten days after such suspension for relief from the suspension. If the credit union review board sustains the commissioner, the credit union, not later than ten days after the decision of the credit union review board, may apply to the circuit court of the county in which the credit union is located to enjoin further proceedings. The court, after requesting the commissioner to show cause why further proceedings should not be enjoined and hearing all the facts in the case, may dismiss the application or enjoin the commissioner from further proceedings.

(c) If the credit union fails to respond to the suspension notice or request a hearing during the suspension period, the commissioner may revoke the credit union's charter, appoint a liquidating agent, and liquidate the credit union.

**§410- Corporate credit union.** (a) A corporate credit union may be incorporated under this section and shall be subject to provisions of this chapter not inconsistent with this section.

(b) Membership in the corporate credit union shall be limited to credit

unions organized under this chapter, the Federal Credit Union Act, or any other credit union law, and organizations or associations of credit unions. The board of directors of each credit union, organization, or association becoming a member of a corporate credit union shall designate one person to be a voting representative in the corporate credit union. Such voting representatives shall be eligible to hold office in the corporate credit union as if such person were a member of the corporate credit union.

(c) Only one corporate credit union shall be incorporated under this chapter and be permitted to use the term "corporate credit union".

(d) A corporate credit union is a cooperative nonprofit association whose members consist primarily of other credit unions and whose purposes are to:

- (1) Accumulate and prudently manage the liquidity of its member credit unions through interlending and investment services;
- (2) Act as an intermediary for credit union funds between members and other corporate credit unions;
- (3) Obtain liquid funds from other credit union organizations, financial intermediaries, and other sources; and
- (4) Foster and promote in cooperation with other state, regional, and national corporate credit unions and credit union organizations, or associations, the economic security, growth, and development of member credit unions.

(e) Any application to establish a corporate credit union shall be made in writing to the commissioner. The application shall contain the names of at least ten credit unions which have agreed to subscribe to shares in the corporate credit union at the time the application is made. The application shall be accompanied by the articles of incorporation, bylaws, and articles of association or other appropriate documents. The bylaws shall provide for the selection of a board of directors of at least five members and shall require credit unions applying for membership to subscribe to shares in a minimum amount specified in the bylaws.

(f) A corporate credit union shall have the same powers and privileges of any other credit union incorporated under this chapter in addition to those powers enumerated in this section, notwithstanding any limitations or restrictions in this chapter. A corporate credit union may:

- (1) Accept shares or deposits from its members, other state, regional, or national corporate credit unions, and credit union organizations or associations;
- (2) Make loans to credit unions, other state, regional, or national corporate credit unions, organizations or associations of credit unions; and other members;
- (3) Establish lines of credit for members and participate with other credit unions in making loans to its members under the terms and conditions determined by the board of directors;
- (4) Invest in shares of or make deposits in credit unions;
- (5) Borrow from any source without limitation;
- (6) Acquire or sell the assets and assume the liabilities of a member; and
- (7) Enter into agreements with credit unions to discount or purchase loans made pursuant to government-guaranteed loan programs, real estate

loans made by members, or any obligations of the United States or any agency thereof held by members.

The corporate credit union may exercise such incidental powers or privileges conferred upon a federal corporate credit union, subject to the approval of the commissioner.

(g) The corporate credit union may enter into agreements for the purpose of participating in any state or federal central liquidity facility or central financial system for credit unions, and for the purpose of aiding credit unions in establishing concentrated lines of credit with other financial institutions and act as a depositor and transmitter of funds to carry out such agreements.

(h) The corporate credit union shall have the right of immediate set-off against the balances of the share and deposit accounts of each member for any amounts due from the member to the corporate credit union. The corporate credit union shall have a lien on all share and deposit accounts of each member in the amount of the total indebtedness of the member to the corporate credit union. The lien shall attach to such accounts and be effective whenever the member is indebted to the corporate credit union. The lien shall have priority over any interests of all members and unsecured creditors of the member credit union of the corporate credit union. The board of directors or credit committee may require and accept additional security for loans to a member in the form of a pledge, assignment, hypothecation, or mortgage of any assets of the member of a guarantor.

(i) The board of directors of a corporate credit union shall meet at least once every ninety days in person or by telephone as provided in the bylaws. The annual meeting of the members of the corporate credit union shall be held at such time as prescribed in the bylaws. Each member shall be entitled to one vote irrespective of the number of shares held by the member.

(j) The operating fees established by the commissioner pursuant to section 410- shall allow for the special purposes and operations of a corporate credit union.

(k) A corporate credit union shall be exempt from the regular reserve requirements established in section 410-23, but shall establish and maintain an equity reserve to meet losses, in accordance with rules adopted pursuant to chapter 91 by the commissioner.

(l) Any corporate credit union shall be exempt from the share and deposit requirements of this chapter and from the security laws of this State.

**§410- Withdrawals.** (a) Shares, share certificates, share drafts, deposits, and deposit certificates may be withdrawn for payment to the account holder or to any third party, in such manner and in accordance with such procedures as may be established by the board of directors, subject to rules adopted by the commissioner under chapter 91.

(b) Shares, share certificates, share drafts, deposits, and deposit certificates shall be subject to any withdrawal notice requirement provided in the bylaws of the credit union."

2. By amending sections 410-1 to 410-5 to read:

[[§410-1]] **Short title.** This chapter may be cited as the Hawaii Credit Union Act.

[[§410-2]] **Definitions.** As used in this chapter:

“Capital” includes shares, deposit accounts, reserves, and undivided earnings.

[“Commissioner” means the director of the department of regulatory agencies.]

“Central credit union” means a credit union whose membership [primarily consists of other credit unions organized under Hawaii or federal law; officials, committee members, and employees of any credit union organized under Hawaii or federal law.] includes, but is not limited to, officers, directors, committee members and employees of credit unions organized under this chapter or any other credit union law; the officers, directors and employees of associations of credit unions; employees of federal or state government agencies responsible for the supervision of credit unions in this State; employees of an employer having an insufficient number of employees to form or conduct the affairs of a separate credit union; and the members of their immediate families.

“Commissioner” means the director of regulatory agencies.

“Common bond” means those persons or groups of persons eligible for membership in a credit union which:

- (1) Have a similar profession, occupation, or formal association with an identifiable purpose;
- (2) Reside within an identifiable neighborhood, community, rural district, or county;
- (3) Are employed by a common employer;
- (4) Are employed by the credit union; or
- (5) Are members of the immediate family of persons within such groups.

“Corporate credit union” means a cooperative nonprofit association whose members consist primarily of other credit unions and whose purpose includes, but is not limited to, meeting the liquidity needs of member credit unions.

“Credit manager” means any employee of a credit union empowered to approve or disapprove loans subject to the policies and conditions prescribed by the board of directors of the credit union.

“Credit union” means a cooperative, nonprofit [corporation,] association, incorporated under this chapter to encourage thrift among its members, create a source of credit at a fair and reasonable rate of interest, and provide an opportunity for its members to improve their economic and social conditions.

“Deposit account” means an account [limited to members and treated as a form of savings. These accounts are subject to conditions established by the board of directors. Deposit accounts differ from savings accounts in that a pre-declared dividend may be established, and that they have prior claim to savings accounts.] that has a pre-declared dividend and a prior claim over assets of the credit union subject to conditions established by the board of directors of the credit union.

“Members of the immediate family” include the spouse, parents, and children of a member, whether living together in the same household or not, and any other relative of the member or spouse of the member living together in the same household as the member.

“Passbook” means any book, statement of account, or other record approved by the commissioner for use by credit unions[.] to record deposits, withdrawals, and dividends.

“Regular reserves” means the [reserve set aside to cover losses.] percentage of

the total outstanding loans and other risk assets to which losses on loans and other risk assets will be charged.

“Residential real property” means real property on which is situated a dwelling unit comprised of not more than four family units, the primary use of which is occupancy as a home.

“Risk assets” means all assets except the following: cash on hand; share-secured loans, deposits, or shares in federally or state-insured banks, savings and loan associations, and credit unions; assets which are insured by, fully guaranteed as to principal and interest by, or due from the United States government, its agencies, the Federal National Mortgage Association, or the Government National Mortgage Association; loans to other credit unions; loans to students insured under the provision of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) or similar state insurance programs; loans insured under Title I of the National Housing Act (12 U.S.C. 1703) by the Federal Housing Administration[;] or any government guaranteed or insured loan program; shares or deposits in [central] corporate credit unions; common trust investments which deal in investments authorized by the Federal Credit Union Act; prepaid expenses; accrued interest on nonrisk investments; furniture and equipment; and land and buildings owned by the credit union.

[“Savings” means the same as share as defined in section 410-16.]

“Shares” means the equity of any credit union including regular shares, share drafts, and share certificates. All shares of stock of a credit union shall be common shares of one class. Shares may be subscribed to, paid for, and transferred in such manner as prescribed in the bylaws of the credit union.

**[[§410-3]] Credit union review board; powers and duties.** (a) There shall be a credit union review board consisting of five members appointed pursuant to section 26-34 by the governor who shall also designate the chairman of the board. There shall be at least one member from each of the counties who shall serve for four years, except that the initial terms of the first members, other than the chairman taking office shall expire as follows: one on December 31 after the year that this chapter becomes law and one at the end of each succeeding calendar year thereafter. The governor shall appoint persons of tested credit union experience and who are members of credit unions operating under this chapter. However, until such time that there are credit unions operating under this chapter, the governor may make temporary appointments to the board of persons with tested credit unions experience from any credit union operating in the State. The terms and number of these temporary appointees will terminate as the number of credit unions become operative under this chapter.

(b) The powers and duties of the board shall include, but not be limited to:

- (1) Advising the commissioner[, supervisor of credit unions,] and others in improving the condition and service of credit unions;
- (2) Reviewing the acts and decisions of the commissioner in relation to credit unions;
- (3) Serving as an appeal board for credit unions and performing other review functions in relation to credit unions as are provided by law;
- (4) Issuing subpoenas, taking testimony, and administering oaths to witnesses;

- [(5) Making available the official actions of the commissioner for inspection of the board;
- (6) (5) Making necessary recommendations as to procedural rules [and regulations] pursuant to chapter 91;
- [(7)] (6) Adopting rules to safeguard the interest of depositors and shareholders; and
- [(8)] (7) Keeping detailed minutes of each board meeting.

(c) [Each member of the board and all employees of the board shall hold in confidence all information received in connection with their official duties and shall not release such information unless authorized by law. Any member or employee of the board violating this subsection shall be guilty of a misdemeanor.] Board meetings shall be held at such times and places as shall be determined by the chairman; provided that at least one meeting shall be held every six months. Special meetings may be called either by the chairman, the commissioner, or a majority of the board members.

(d) Three members of the board present shall constitute a quorum and a majority vote of those present shall prevail. No member of the board shall be qualified to act in any matter involving a credit union of which [he] the board member is an officer, director, [committeeman,] committeeperson, member, employee, or to which [he] the board member is indebted. The members of the board shall serve without compensation but shall be reimbursed through the office of the commissioner for any expenses incurred in the performance of their duties.

**§410-4 Commissioner of credit unions; powers and duties.** (a) The director of the department of regulatory agencies shall be the commissioner.

(b) The powers and duties of the commissioner shall include, but are not [be] limited to:

- (1) Enforcing the provisions of this chapter and other laws relating to credit unions;
- (2) Conferring with the credit union review board on matters affecting credit unions incorporated under this chapter [;] on a regular basis and shall be determined by the chairman and the commissioner; provided that the commissioner shall confer with the review board at least once every six months.
- (3) Make files available for inspection by the review board relating to decisions of the commissioner regarding credit unions.
- [(3)] (4) Appointing a deputy not subject to chapters 76, 77, and 89 who shall receive a salary effective July 1, 1975, of not more than \$29,500 a year, and effective January 1, 1976, of not more than \$32,500 a year. [He] The deputy shall possess all powers and perform all duties attached to the office of the commissioner of credit unions during a vacancy or during the absence or inability of the commissioner; and
- [(4)] (5) Employing examiners and clerks pursuant to chapters 76 and 77 to assist [him] the commissioner and [his] the commissioner's deputy in the discharge of the duties of the office.

[The commissioner, his deputy, and the employees of the office shall be subject to the same requirements and penalties of the members of the board as provided in section 410-3(c).]

**[[]§410-5[[]] Acts, orders, or determinations of the commissioner; aggrieved persons.** (a) Any interested person or corporation aggrieved by any act, order, or determination of the commissioner may apply for review thereof by filing a petition with the [secretary] chairman of the board within thirty days after the act, order, or determination to be reviewed. The petition shall state the nature of the petitioner's interest; facts showing that the petitioner is aggrieved and directly affected by the act, order, or determination to be reviewed and the ground upon which the petitioner claims that the act, order, or determination should be modified or reversed. The issues raised by the petition for review shall be considered by the board [upon giving] not later than thirty days after the filing of the petition unless the review board grants a delay for such review pursuant to a formal request by an interested party. The chairman of the board shall give at least ten days' written notice of the time and place when the matter will be heard to the commissioner and to the person or the person's attorney applying for review [or his attorney and to any other person who participated in the proceedings before the commissioner or his attorney]. Notice of hearing may be given by [registered] certified mail, return receipt requested, and the return receipt signed by the addressee or [his] the addressee's agent shall be presumptive evidence that such notice was received by the addressee on the day stated on the receipt. Any other interested party shall have the right to appear in [any] the proceeding before the board.

(b) The board shall base its determination upon the record made by the commissioner and may also receive additional evidence to supplement such record, if it finds it necessary. The board shall affirm, modify, or reverse the act, order, or determination under review. The burden of overcoming the act, order, or determination of the commissioner under review shall be on the person seeking the review. Any findings of fact made by the commissioner shall be sustained if supported by substantial evidence in the record made by [him] the<sup>1</sup> commissioner or in the record supplemented by evidence taken by the board. The board shall have the powers granted by this chapter and as provided by law.

(c) Any person causing a witness to be subpoenaed shall advance and pay the fees and mileage of such witness which shall be the same as in circuit court. The fees and mileage of witnesses which shall be the same called at the instance of the commissioner shall be paid by the State in the same manner that other expenses are audited and paid upon presentation of properly verified vouchers approved by at least one member of the board and charged to the appropriation of the office of the commissioner.

**[(c) (d)]** Any final order or determination of the board shall be subject to review in the same manner provided in this chapter and the laws of this State."

3. By amending section 410-7 to read as follows:

**["[]§410-7[[]] Credit union organization.** Any seven or more natural persons who desire to form a credit union under this chapter may subscribe to the commissioner before some officer competent to administer oaths an organization certificate in duplicate which shall specifically state:

- (1) The name and location of the proposed credit union;
- (2) The territory in which it will operate;
- (3) The names and addresses of the subscribers to the certificate and the number of shares subscribed by each;



- (4) The par value of each share [which shall be \$5 each];
- (5) The proposed field of membership, specified in detail;
- (6) The term of the existence of the corporation which may be perpetual; and
- (7) The fact that the certificate is made to enable such persons to avail themselves to the advantages of this chapter.

The organization certificate may also contain any provisions approved by the commissioner for the management of the business of the credit union and for the conduct of its affairs and relative to the powers of its directors, officers, [committees,] committeepersons, or shareholders.”

4. By amending section 410-9 to read as follows:

“**§410-9 Fees other than examination fee.** (a) Organization fee. For the purpose of paying the costs [incident] incidental to the ascertainment of whether an organization certificate should be approved, the subscribers to any such certificate shall pay, at the time of filing their organization certificate, the amount prescribed by the commissioner, which shall not exceed \$20 in any case; and on the approval of any organization certificate, they shall also pay a fee of \$5.

(b) Supervision fee. Not later than January 31 of each calendar year, each credit union shall pay to the credit union division of the department of regulatory agencies for the preceding calendar year, a supervision fee in accordance with a graduated scale prescribed by this [section] subsection on the basis of assets as of December 31 of such preceding year, but the fee shall in no event be less than \$10, as follows:

<b>Total Assets</b>	<b>Maximum Fee</b>
\$500,000 or less . . . . .	25 cents per \$1,000
Over \$500,000 and not over \$1,000,000 . . . . .	\$125 plus 20 cents per \$1,000 in excess of \$500,000
Over \$1,000,000 and not over \$2,000,000 . . . . .	\$225 plus 15 cents per \$1,000 in excess of \$1,000,000
Over \$2,000,000 and not over \$5,000,000 . . . . .	\$375 plus 10 cents per \$1,000 in excess of \$2,000,000
Over \$5,000,000 . . . . .	\$675 plus 5 cents per \$1,000 in excess of \$5,000,000

No annual supervision fee shall be payable by the credit union with respect to the year in which its charter is issued except in cases of conversion from a credit union chartered under [the provisions of] the Federal Credit Union Act to a credit union chartered under this chapter, or in which final distribution is made in its liquidation or the charter is otherwise canceled.

Failure of any credit union to pay any amount [as herein provided] required by this subsection shall be grounds for the revocation of the charter of the credit union failing to make the payment.

Fees collected under this section shall be deposited to the credit of a general fund and be available for the purposes of administering this chapter.”

5. By amending section 410-10.5 to read as follows:

“~~[[~~§410-10.5~~]]~~ **Privileges and immunities of credit unions.** Any credit union authorized to do business under the laws of this State shall have, with the prior consent of the commissioner, all rights, privileges, benefits, and immunities presently or hereafter possessed by federal chartered credit unions [which are located in this State].”

6. By amending sections 410-11 to 410-15 to read as follows:

“~~[[~~§410-11~~]]~~ **Bylaws.** In order to simplify the organization of credit unions, the commissioner shall from time to time cause to be prepared a form organization certificate and a form of bylaws, consistent with this chapter, which shall be used by credit union incorporators and credit unions, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators shall also submit proposed bylaws to the commissioner for [his] approval.

The bylaws shall prescribe the following:

- (1) The conditions of residence or occupation which qualify persons for membership; provided[,] that:
  - (A) Credit unions shall be open to groups having common [or related bonds of occupation or association, or to residents within a well-defined neighborhood, community, or rural district, or to employees of related or vicinal industries, or to members of bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization and employees of the credit union. Members] bonds, and the members of the immediate family of all qualified persons who are eligible for membership. [In this section “members of the immediate family” include the wife, husband, parents, and children of a member whether living together in the same household or not and any other relative of the member or spouse of a member living together in the same household as the member. Minimum requirements for the establishment of credit unions will be according to the rules and regulations promulgated by the commissioner.]
  - (B) Organizations and associations composed of individuals, the majority of whom are eligible for membership, may be admitted to membership in the same manner and under the same conditions as individuals.
  - (C) An individual who ceases to qualify under subparagraph (A) may retain [his] full membership in the credit union at the discretion of the board of directors.
- (2) The par value of each share [of capital stock which shall be \$5.] shall be the same as the value indicated in the credit union’s organization certificate under section 410-7.
- (3) The conditions on which accounts may be paid in, transferred, and withdrawn.
- (4) The method of receipting for money paid on accounts.
- (5) [The number of directors and the length of their terms, a credit committee or loan officer.] The number and length of terms of directors, audit committee members and credit committee members, or a credit

manager if desired by the credit union.

- (6) The duties of the several officers.
- (7) The time of the annual meeting of members, which shall be held within ninety days after the end of the calendar year.
- (8) The manner in which members and directors shall be notified of meetings.
- (9) The number of members which shall constitute a quorum at meetings.
- (10) Such other regulations as may seem necessary.

[A credit union may have deposit accounts such as Christmas, vacation, education, deferred income, pension, and similar types. Credit unions may conduct elections by mail ballot which shall be signed by the member and valid only for the meeting designated.]

**§410-12 Members, [fiscal year,] meetings, powers.** (a) The incorporators shall call the first meeting of the eligible membership with the primary purpose of electing a board of directors. No person may vote at a meeting unless [he] the person has been a member for at least three months, except during the first twelve months of the existence of the corporation. Members shall not have more than one vote. Fifteen members shall [consitute] constitute a quorum. The annual meeting and any special meeting of the members of the credit union shall be held at the time, place, and in the manner indicated under the bylaws. Credit unions may conduct elections by mail ballot which shall be signed by the voting member and valid only for the designated meeting.

(b) Special meetings may be held by order of the directors or the secretary shall call a special meeting upon written request of one-third of the members. Notice of the meeting shall state the purpose of the meeting.

(c) At any meeting the members may:

- (1) Decide, by a majority of members present, any question of interest to the [corporation,] association;
- (2) Reverse, by a two-thirds vote of the members present, if the notice of the meeting specified the questions to be considered and upon appeal of fifteen members, decisions of the credit committee, credit manager, loan officers, or board of directors;
- (3) Remove, by a three-fourths vote of the members present, any officer or member of the credit committee, credit manager, loan officer, or member of the board of directors, fill the vacancy caused by such removal, and amend the bylaws if the notice of meeting specified the questions to be considered.

(d) The fiscal year of every credit union shall end at the close of business on December 31 [and the credit union shall transfer funds to the regular reserve account at the end of each accounting period as required by section 410-23].

[(e) Multiple accounts may be issued in joint tenancy with any person designated by the credit union member. The person first named in any such joint account shall be a member of the credit union. A nonmember named in the joint account shall not acquire the right to vote, obtain loans, or hold office because of his inclusion in the joint account.

(f) (e) The credit union shall have succession in its corporate name and during its existence [and] shall have power to:

- (1) Make contracts;
- (2) Sue and be sued;
- (3) Adopt and use a common seal and alter the same at pleasure;
- (4) [Purchase, hold, and dispose of property necessary or incidental to its operations;] Purchase, lease, hold, assign, pledge, hypothecate, sell, or otherwise dispose of property, either in whole or in part, necessary or incidental to its operations;
- (5) Make unsecured and secured loans to its members according to section 410-15;
- (6) [Receive from its members or other credit unions payments on shares, share certificates, or share deposits;] Offer to its members, public unit accounts and other credit unions, shares, share certificates, share drafts, deposits, or deposit certificates, as provided in this chapter;
- [(7) Invest its funds according to section 410-22;
- (8)] (7) Make deposits and invest in national banks [and in], state banks, and mutual savings banks, savings and loan associations, trust companies, industrial loan companies, and other credit unions, including corporate credit unions, operating as provided by law[;], and invest funds as otherwise provided in section 410-22;
- [(9)] (8) Borrow[ , in accordance with such rules and regulations as may be prescribed by the commissioner, from any source, in an aggregate amount not exceeding fifty per cent of its paid-in and unimpaired capital and surplus; provided, that any credit union may discount with or sell to any credit union or other financial institutions obligations up to the amount of its paid-in and unimpaired capital. Borrowing of funds under this paragraph is limited to a period of twelve months, except that such period may be extended when approved by the commissioner;] from any source; provided that a credit union shall notify the commissioner in writing of the credit union's intention to borrow in excess of an aggregate equal to fifty per cent of the credit union's paid-in and unimpaired capital and surplus;
- [(10)] (9) Levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;
- [(11)] (10) Impress and enforce a lien upon the shares [and dividends of any member, to the extent of any loan made to him or any dues or charges payable by him;], share certificates, deposits, deposit certificates, and accumulated dividend or interest of a member in the member's individual, joint, or trust account, for any sum past due the credit union from such member, or for any loan endorsed by the member; provided that the credit union shall have the right of immediate set-off with respect to every such account;
- [(12)] (11) In accordance with rules and regulations prescribed by the commissioner, sell to members negotiable checks (including travelers checks) and money orders, and cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing such service[;] or provide such services without charge, if the credit union so desires;

- [(13) In accordance with rules and regulations prescribed by the commissioner, purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed five per cent of the unimpaired capital and surplus of the credit union;]
- (12) Discount or sell any of the credit union's assets, and purchase the assets of any other credit union, subject to the commissioner's approval;
- (13) Hold membership in other credit unions organized under this chapter or any other laws, in service centers, and in associations and organizations controlled by or fostering the interests of credit unions, including a central liquidity facility organized under state or federal law;
- (14) Engage in activities and programs requested by the federal government, this State, or any state agency or political subdivision thereof, subject to approval by the board of directors and not inconsistent with this chapter;
- (15) Act as fiscal agent for and receive payments on shares, deposits, or both, from the federal government; and
- [(14)] (16) Exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the business for which it is incorporated.

**§410-13 Directors, credit committee, audit committee, and loan officers.**

(a) The members shall elect at the first meeting or at any subsequent annual meeting, a board of directors consisting of an odd number of directors of not less than five and not more than fifteen directors. The board of directors shall appoint a credit committee of not less than three nor more than five or a credit manager, if permitted by the credit union's bylaws, and an audit committee of not less than three nor more than five and such other officers as it determines are necessary. Only one director may be appointed to the credit committee. Only one director may be appointed to the audit committee. The directors, officers, and committee members of the credit union shall [be sworn and shall] hold their offices [until others are elected or appointed, and qualified, in their stead. A record of every oath shall be filed and preserved with the records of the credit union.] for such terms as provided by the credit union's bylaws. A majority of the board shall constitute a quorum.

(b) The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the [corporation.] association. Minutes of all meetings shall be kept.

(c) The board shall:

- (1) Act upon applications for membership[; provided that the board may appoint at its pleasure] or appoint one or more persons from among the general membership to serve as membership officers[, who may act upon applications for membership within limitations established by the

- board;] to approve applications for membership under conditions prescribed by the board. A person who is denied membership by a membership officer may appeal the denial to the board;
- (2) Purchase a blanket fidelity bond, as prescribed by the commissioner for [the] credit [union] unions according to their asset categories[, covering the officers, directors, committeemen, employees, attorneys-at-law, and other agents appointed by the board of directors, with protection against loss caused by] to protect the credit union against losses covered under the bond such as fraud, dishonesty, burglary, robbery, larceny, theft, forgery, embezzlement, misappropriation, misapplication, or alteration of instruments, misplacement or mysterious disappearance, and for faithful performance of duty[.] by a director, officer, employee, committee member, attorney, or other agent of the credit union. The commissioner shall prescribe in [his rules and regulations] the commissioner's rules the amount of minimum bond coverage required for all credit unions according to their asset categories;
  - (3) Fill vacancies in the board until successors elected at the next annual meeting have qualified;
  - (4) Have charge of [investments other than loans to members;] the investment of funds; provided that the board may designate an investment committee or any qualified person to make investments under conditions established by the board;
  - (5) [Determine from time to time the maximum number of shares that may be held by an individual member;] If deemed desirable, limit the number of shares and the amount of share certificates, deposits, or deposit certificates which may be owned by any member. Any such limitation shall apply to all members in the same manner;
  - (6) Subject to the limitations of this chapter, determine the interest rates on loans and the maximum amount which may be loaned with or without security to any member[;], and establish policies concerning the granting of loans and the extension of credit;
  - (7) Subject to such [regulations as may be issued] rules adopted under chapter 91 by the commissioner, authorize an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by them during the dividend period[;] on such classes of loans and under conditions prescribed by the board;
  - (8) [Provide for] Authorize the employment of and provide for the compensation of necessary clerical and auditing assistance requested by the audit committee, [and of] loan officers appointed by the credit committee[;] or a credit manager;
  - (9) Declare dividends as provided by section 410-24;
  - (10) Authorize the employment and compensation of such person or persons as may be necessary to carry on the business of the credit union;
  - (11) Designate a depository or depositories for the funds of the credit union;
  - (12) Suspend from [his] an official position any officer or director who fails to attend regular meetings for three consecutive meetings without

cause, or who otherwise fails to perform any of the duties required [of him] as an official;

- (13) Appoint any committees deemed necessary;
- (14) Perform or authorize any action consistent with this chapter not specifically reserved by this chapter for the members, and perform such other duties as the members may from time to time require; and
- (15) Submit reports of financial condition to the commissioner annually as of December 31 and other reports as required by the commissioner. These reports shall be submitted to the commissioner by January 31 after the close of the preceding calendar year.

[(d) The board of directors may appoint an executive committee of not less than three directors and delegate its authority to the committee to act for the board, within limitations established by the board.

(e) (d) The credit committee shall hold such meetings as the business of the credit union may require and not less frequently than once a month to consider applications for loans. Reasonable notice of such meetings shall be given to all members of the committee. A majority of the members shall constitute a quorum. No loans shall be made unless it is approved by a majority of the committee members present at the meeting and unless a quorum of the committee was present at the meeting at which the application is considered; except that the credit committee or credit manager may [appoint one or more loan officers, and delegate to him or them] delegate to the loan officers the power to approve loans [.] or also the power to disapprove loans, if authorized by the credit committee or credit manager. Each loan officer shall furnish to the credit committee or credit manager a record of each loan approved or not approved by [him] the loan officer within seven days of the date of the filing of the application [therefor]. All loans not approved by a loan officer shall be acted upon by the credit committee [no later than thirty days from the date the application is forwarded to the credit committee.] or credit manager, if the loan officer is not authorized to disapprove such a loan. No individual shall have authority to disburse funds for the credit union for any loan which has been approved by [him in his] any person in the capacity [as a] of loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Applications for loans shall be made on forms prepared by such committee, which shall set forth the purpose for which the loan is desired, the security, if any, and such other data as may be required. No loan which is not adequately secured may be made to any member, if, upon the making of that loan, the member would be indebted to the credit union upon loans made to [him] such member in an aggregate amount which would exceed [the amount allowed in section 410-15.] ten per cent of the shares and deposits of the credit union, or a lesser amount determined by the board of directors.

For the purposes of this section any assignment of shares or the endorsement of a note shall be deemed security and, subject to such [regulations] rules as the commissioner may prescribe, except insurance obtained under Title I of the National Housing Act shall be deemed adequate security.

(e) The credit committee may be dissolved in accordance with the bylaws, and a credit manager, under the general supervision of the chairman, may be authorized to approve or disapprove loans subject to the policies and conditions

prescribed by the board of directors. The credit union manager may serve as a credit manager.

(f) The credit committee may appoint one or more loan officers and delegate the power to approve or disapprove loans, subject to the limitations or conditions prescribed by the credit committee.

[(f)] (g) The audit committee shall make or cause to be made by a licensed public accountant or any other qualified person or organization a comprehensive annual audit and shall submit a report of that audit to the board of directors and a summary of the report to the members at the next annual meeting of the credit union. The committee shall make or cause to be made by a licensed public accountant or any other qualified person or organization supplementary audits as it deems necessary or as may be ordered by the commissioner, and submit a report of the supplementary audits to the board of directors. The committee may by a unanimous vote suspend any officer of the credit union or any member of the credit committee or the board of directors, until the next membership meeting, which shall be held not less than seven nor more than fourteen days after any suspension, at which meeting any such suspension shall be acted upon by the members. The committee may call by a majority vote a special meeting of the members to consider any violation of this chapter, the charter, or the bylaws, or any practice of the credit union deemed by the audit committee to be unsafe or unauthorized. Any member of the audit committee may be suspended by a majority vote of the board of directors. The members shall decide, at a meeting held not less than seven nor more than fourteen days after any such suspension, whether the suspended committee member shall be removed from or restored to the audit committee. The books and accounts of the members shall be verified with the records of the treasurer from time to time[, and] or verified by generally accepted statistical methods not less frequently than once every two years.

**[[§410-14]] Officers and their duties.** (a) At their first meeting, within thirty days following the annual meeting of the members, the board of directors shall elect from their own number a chief executive officer who may be designated as chairman of the board, a vice-chairman, a treasurer, and a secretary, of whom the last two may be the same individual. The board of directors may appoint an executive committee consisting of not less than three directors, which may be authorized to act for the board in all respects, subject to any conditions or limitations prescribed by the board. The board of directors may employ an officer in charge of operations whose title shall be either the president or general manager; or in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to be in active charge of the affairs of the credit union.

(b) Within ten days after election to any position, each person so elected or appointed shall execute an oath of office [by which he agrees] and agree to accept and to diligently and faithfully carry out the duties and responsibilities of the elected or appointed position [to which he has been elected], and not to negligently or wilfully violate, or permit to be violated, any provisions of this chapter, rules [and regulations issued] adopted under chapter 91 by the commissioner, or the charter or bylaws of such credit union.

(c) The chairman of the board and secretary shall execute a certificate of election which shall set forth the names and addresses of the officers, directors, and



committee members elected or appointed.

The oath of office and the certificate of election shall be executed on forms prepared by the commissioner, and one copy of each shall be filed with the commissioner within ten days after such election or appointment. The terms of the chairman of the board or president, vice-chairman or vice-president, treasurer, and secretary shall be for one year, or until their successors are chosen and have been fully qualified. No director of the credit union, or committee member, other than the treasurer, may be compensated, directly or indirectly, for [his services as such.] their services; provided that reasonable health, accident, and other insurance shall not be considered compensation under this chapter. This provision shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office.

(d) The board of directors shall fill any vacancies occurring in the board until successors at the next annual meeting have qualified for the board. The board shall also fill vacancies in the credit and audit committee.

**§410-15 Loans to members.** (a) A credit union may loan to members [for provident or productive purposes and],<sup>2</sup> whether individuals or corporations, upon such security approved by the board of directors, acceptable to the credit committee, and not prohibited by this chapter. [A credit union shall not grant unsecured loans with maturities exceeding five years, nor shall it grant secured loans, except as expressly herein otherwise provided, with maturities exceeding ten years; provided, that these limitations shall not apply to loans made under the National Higher Education Act and guaranteed in whole or in part by the United States government or any of its agencies, or any agency of the State.] No loan shall bear an interest rate to exceed eighteen per cent per year on the unpaid balance; provided that interest rates on loans made or committed to before [June 5, 1980] shall not be affected. A credit union may grant unsecured loans based on loan policies of the board of directors. Loans may have (1) fixed interest rates, (2) interest rates based on an index which permits the credit union to charge a higher or lower interest rate whenever the index increases or decreases, (3) variable interest rates for both consumer and mortgage loans, or (4) fixed interest rates with a balloon payment.

[No] A credit union [shall] may charge the borrower [anything of value in connection or in association with a loan other than repayment of the unpaid principal balance and interest; provided, that the credit union may require the borrower to pay] fees to meet internal and external costs, points, or the unpaid principal balance, and interest, including fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction, fees, or premiums in connection with real estate loans, [including] fees or premiums for title examination, title insurance, or similar purposes, fees for preparation of deeds, settlement statements or other documents, escrows for future payments of taxes and insurance, fees for notarizing deeds and other instruments, appraisal fees, or credit reports. Each application for a loan shall be made upon a form, which the credit committee prescribes and the board of directors approves, which shall state the purpose for which the loan is desired and the security, if any, offered. Every loan shall be evidenced by a written instrument. [Loans to any one member shall not

exceed \$200 or ten per cent of the shares, deposits, and surplus, whichever shall be the larger.] No loans shall be made to any member having an aggregate indebtedness to the credit union exceeding ten per cent of the credit union's unimpaired capital and surplus.

(b) Loans may be made to members of the board of directors, credit committee, and audit committee under the same general terms and conditions as to other members of the credit union, but all such loans shall be reported to the commissioner at least annually, and such a loan may be made only if:

- (1) The loan complies with all lawful requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;
- (2) Upon application for the loan, if the aggregate amount of the credit union official's outstanding loans and amount being applied for exceed \$5,000[,] or a lesser amount prescribed by the board of directors of the credit union, the loan must be approved by the credit committee or credit manager and board of directors after the submission to them of a detailed current financial statement by the loan applicant. However, loans that are fully secured by shares and deposits in the credit union need not be approved by the board of directors and the authority to approve these loans may be delegated to the loan officer by the credit committee[;] or credit manager;
- (3) The loan applicant takes no part in the consideration of [his] the application and is not present during the taking of the vote by the credit committee or credit manager, and board of directors meeting while [his] the application is under consideration; [and]
- (4) Upon the making of the loan, the aggregate amount of loans outstanding under authority of this section shall not exceed [twenty] ten per cent of the unimpaired capital and surplus of the credit union[.]; and
- (5) A credit union may permit its officers, directors, employees, loan officers, credit manager, and members of the audit and credit committees to act as coborrowers, guarantors, or endorsers of loans to other credit union members; provided that the approval of the board of directors is required when any loan, by itself, or when added to any outstanding loans or such loans made as a coborrower, grantor, or endorser, exceeds \$5,000.

(c) Loans may be granted to members of the credit union, secured by a [first] mortgage on residential real estate. [The term "residential real estate" shall mean land on which is situated a dwelling of not more than four family units, the primary use of which is occupancy as a home.] Such loan shall not exceed ninety per cent of the appraised value of the real estate plus the unencumbered share or deposit balances of the borrowing member that are pledged to the loan, and such loans may provide additionally regular deposits for the payment of insurance premiums and taxes assessed against the security. [No loan shall be made by a credit union on residential real estate for a maturity of more than thirty years.]

(d) Loans may be granted to members of the credit union secured by a [first] mortgage on real estate other than residential real estate; provided[,] that the loan does not exceed eighty per cent of the appraised value of such real estate and such

loan provides for the regular reduction of principal[; and provided, that such loan does not exceed a maturity of thirty years]. The loan shall also provide additionally regular deposits for the payment of insurance and taxes assessed against the property unless an amount equivalent to at least the annual insurance payment and annual taxes is maintained in the share account.

(e) [The total outstanding balance of all first mortgage loans on real estate shall not exceed thirty per cent of the outstanding shares and deposits of the credit union.

(f) (1) The board of directors shall determine the policy regarding collateral acceptable for secured loans. [Loans to individuals which in the aggregate exceed the amount shown in the schedule below shall be secured by such collateral having a value which, in the opinion of the credit committee or loan officer, is at least equal to any amount exceeding the following:

- (A) \$250, in credit unions with assets of less than \$5,000.
- (B) \$500, in credit unions with assets of \$5,000 and less than \$25,000.
- (C) \$1,000, in credit unions with assets of \$25,000 and less than \$100,000.
- (D) \$2,500, in credit unions with assets of \$100,000 and less than \$500,000.
- (E) \$3,500, in credit unions with assets of \$500,000 and less than \$1,000,000.
- (F) \$5,000, in credit unions with assets of \$1,000,000 or more.

(2) This subsection does not preclude the credit committee or loan officer from requiring security on any loan. Where such loans are secured by one or more co-makers, such co-makers shall furnish the credit union with written evidence of financial responsibility.

(g) The commissioner may reduce the loan limits specified in subsection (f) of this section on an individual basis.

(h) (f) A credit union may loan to members under [the provisions of Title I of the National Housing Act] any government guaranteed or insured loan program and such insurance on these loans shall be deemed adequate security. The terms of such loans shall be as defined by the credit committee under the provisions of [Title I of the National Housing Act.] the loan program.

[(i) (g) In addition to generally accepted types of security, the endorsement of a note by a guarantor, [co-maker] coborrower or assignment of shares, in a manner consistent with state law, shall be deemed security within the meaning of this chapter and the adequacy of all securities shall be within the determination of the credit committee, credit manager, or loan officer subject to [the provisions of] this chapter and the bylaws. A member may receive a loan in installments or in one sum, and may pay in advance without penalty the whole or any part of [his] the loan on any day in which the credit union office is open for business [without penalty].

[(j) The credit committee or, when authorized, a loan officer may approve in advance upon its or his own motion or upon application by a member, an extension of credit, and loans may be granted to such members within the limits of such extension of credit. Where an extension of credit has been approved, applications for loans need no further consideration as long as the aggregate obligation does not exceed the limits of such extension of credit.] (h) Upon written application by a member, the credit committee, or when authorized a credit manager or loan officer, may approve a self-replenishing line of credit, and grant loan advances to the

member within the limits of such line of credit. When a self-liquidating line of credit has been approved, no additional loan application shall be required; provided that the aggregate indebtedness does not exceed the approved limit plus an overline limit established by the board of directors. The credit committee [shall, at least once a year,] or credit manager, at least once every three years, shall review, or cause to be reviewed, all such extensions of credit[, and any such extension of credit shall expire if the member is more than ninety days delinquent in his obligations to the credit union.

(k) Loans to members secured by first mortgages on real estate may be made subject to the rules prescribed by the commissioner].”

7. By amending section 410-16 to 410-25 to read as follows:

“[[§410-16]] Shares. [A share is defined as a term applied to each \$5 standing to the share or deposit account of a member. The shares of stock of a credit union shall all be common shares of one class and shall have a par value of \$5 per share. No certificate shall be issued to denote ownership of a share in a credit union.] Shares may be subscribed to, paid for, and transferred in such manner as the bylaws may prescribe.

The credit union shall have and may exercise a lien on the shares [or deposits of any member for any sum due the credit union from the member or for any loan endorsed by him.], share certificates, share draft accounts, deposit certificates, and accumulated dividends or interest of any member allowed under section 410-12(e)(10).

[[§410-17]] Thrift clubs.] Special purpose accounts. Christmas clubs, vacation clubs, and other [thrift clubs,] special purpose accounts, if provided for the use of members, shall be operated in accordance with such rules and regulations as the board of directors may prescribe.

[[§410-18]] Deposits. [Deposit accounts shall be operated in accordance with such rules and regulations as the board of directors may prescribe and as approved in writing by the commissioner. Interest rates on deposits shall not exceed six per cent a year unless a rate in excess of six per cent a year shall have first been approved by the commissioner.] Any credit union may offer deposits and deposit certificates to its members and to other credit unions, subject to the terms, rates, and conditions established by the board of directors.

[[§410-19]] Joint accounts. (a) A member may, subject to approval of the board of directors, designate any person or persons to hold shares, deposits, and [thrift club] special purpose accounts [with him] in joint tenancy with the right of survivorship, but no joint tenant, unless a member in [his] the joint tenant's own right, shall be permitted to vote, obtain loans, or hold office. Payment of part or all of such accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.

(b) No credit union organized under this chapter shall be required to recognize the claim of any third party to any deposits, or withhold payment of any deposit to the depositor or [to his] to the depositor's order, unless and until the credit union is served with a pleading filed in or order issued by a circuit court in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit.

(c) Share or share accounts issued by, or deposits made with, any credit

union organized under this chapter, in the name of two or more persons or [to two or more persons or] the survivor of either, may be withdrawn on the signature of either party to whom such shares or share accounts are issued or deposits are made except as limited by law. Either party shall have power to act in all matters relating to such shares or person named in such shares or share accounts or deposits whether the other person or persons is living or dead. The repurchase or withdrawal value of shares or share accounts or deposits issued in joint names and dividends thereon, or other rights relating thereto, may be paid or delivered, in whole or in part, to any of such persons who shall make requests therefor, whether the other person or persons is living or dead. The payment or delivery to any such persons, on a receipt or acquittance signed by any such person, to whom any such payment or any such delivery of right is made, shall be a valid and sufficient release and discharge of any credit union for the payment or delivery so made.

**[§410-20]** **Minor's accounts.** Shares or deposits may be issued in the name of a minor, and such shares or deposits may be withdrawn by such minor, and payments made on such withdrawals shall be valid. [No minor under sixteen years of age shall be entitled to vote in the meeting of the members either personally or through his parent or guardian, nor may he become a director or committee member until he shall have reached the age of majority.]

**[§410-21]** **Trust accounts.** Shares or deposits may be issued in the name of a member in trust for a beneficiary including a minor, but no beneficiary, unless a member in [his] the beneficiary's own right, shall be permitted to vote, obtain loans, hold office or be required to pay an entrance fee. Payment of part or all of such shares or deposits to the member shall, to the extent of such payments, discharge the liability of the credit union to the member and beneficiary, and the credit union shall be under no obligation to see the application of such payment. In the event of the death of the member, and if shares or deposits are so issued or held and the credit union has been given no other written evidence of the existence or terms of any trust, the shares or deposits and any dividends or interest thereon shall be paid to the beneficiary or to [his] the legal representative[.] of the beneficiary.

**[§410-22]** **Investments.** Funds not used in loans to members may be invested:

- (1) In loans to or in capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association, or membership corporation; provided[,] the membership or stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions, corporate credit unions, or organization of credit unions, and provided the purposes for which such agency or association is organized are designed to serve or otherwise assist credit union operations;
- (2) In obligations of the State or any political subdivision thereof;
- (3) In securities, obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the United States government or any agency thereof; or any trust or trusts established for investing directly or collectively in the same;
- (4) In loans to or in shares or deposits of other credit unions [in an amount not to exceed twenty-five per cent of the shares, deposits, and surplus of

- the lending credit union],<sup>3</sup> central credit unions, corporate credit unions, or a central liquidity facility established under federal or state law. Loans shall not exceed twenty-five per cent of the aggregate shares, deposits, and surplus of the credit union making such loans, or any trust or trusts established for lending directly or collectively to credit unions;
- (5) In an aggregate amount not exceeding two and one-half per cent of the credit union's total assets or the amount of its reserve fund, whichever is less, in any agency or association of the type described in paragraph (1), provided the purposes of any such agency or association are designed to assist in establishing and maintaining liquidity, solvency, and security in credit union operations;
  - (6) In certificates of passbook type accounts, insured by the Federal Savings and Loan Insurance Corporation, which are issued by a savings and loan association domiciled in the United States of America; and
  - (7) In certificates of deposit issued by a state or national bank domiciled in the State; provided[,] no credit union may purchase, or own at any one time, certificates of deposit totaling in excess of twenty-five per cent of the paid-in capital and surplus of an issuing bank.

**[[§410-23]] Reserves.** (a) Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside, an amount as a regular reserve against losses on loans and other risk assets against such other losses as may be specified in [regulations prescribed] rules adopted under this chapter. The credit union shall transfer funds to the regular reserve account at the end of each accounting period. The amount and conditions of the transfer to the regular reserve and other reserves will be in accordance with the following schedule:

- (1) The regular reserve of a credit union shall be based on the total outstanding loans and other risk assets. The formula for transfer to the [reserve is at the rate of ten per cent of gross income until such time as the reserve fund reaches five per cent of the risk assets; then the formula is decreased to seven per cent of gross income until such time as the reserve fund reaches six per cent of risk assets; and then the formula is decreased to five per cent of gross income until the reserve fund attains a maximum of seven per cent of risk assets. Subsequent transfers are required only to maintain the seven per cent requirement.] regular reserve for any credit union, except corporate credit unions, shall be as follows:
  - (A) For credit unions in operation for less than four years or having assets of less than \$500,000, there shall be set aside ten per cent of gross income until such time as the regular reserve reaches seven and one-half per cent of the total outstanding loans and risk assets; and then the formula is decreased to five per cent of gross income until the regular reserve reaches a maximum of ten per cent of the total outstanding loans and risk assets.
  - (B) For credit unions in operation for four or more years and having assets of \$500,000 or more, there shall be set aside ten percent of gross income until such time as the regular reserve reaches four per

cent of the total outstanding loans and risk assets; and then the formula is decreased to five per cent of gross income until the regular reserve attains a maximum of six per cent of the total outstanding loans and risk assets.

- (2) Whenever the regular reserve for any credit union, except corporate credit unions, falls below the required percentage of the total outstanding loans and risk assets established in paragraph (1), the credit union shall transfer to the regular reserve whatever amounts of gross income are necessary to meet its reserve requirement.

[(2)] (3) Special reserves may be required by the commissioner on an individual credit union basis for purchased accounts or when serious threat of impairment threatens the adequacy of the regular reserve.

[(3)] Additional reserves for central credit unions may be required by the commissioner when adjustments of corporate investments are not offset by current transfer from gross income to the regular reserves.]

[[§410-24]] Dividends. [(a)] The board of directors [shall establish the dividend period.], after required reserves have been maintained pursuant to section 410-23, may declare dividends which shall be paid on shares and share certificates from undivided earnings, at such intervals and for such periods as the board of directors may authorize. Such dividends may be considered as a normal operating expense of the credit union. Rates of such dividends and terms of payment may be established [and guaranteed] in advance by action of the board of directors. The board of directors may classify its accounts and declare dividends which may be at [variable rates. Savings deposited during the dividend period shall be entitled to an apportionate part of the dividend provided the savings are on deposit at the close of the dividend period.

(b) The commissioner may establish the maximum dividend that a credit union and a central credit union may pay in each classification of its savings. The commissioner may authorize a credit union to declare daily dividends provided minimum requirements established by the commissioner for the regular reserve, undivided earnings, expense to gross income, and operational efficiency are met by the credit union.] different rates giving consideration to the conditions pertaining to each type of account, such as the minimum balance, notice, and time requirements.

[[§410-25]] Examinations. The [department annually shall] commissioner shall annually examine, or cause to be examined, each credit union chartered under this chapter. Each credit union and all of its officers and agents shall be required to give the [department] commissioner full access to all books, papers, securities, records, and other sources of information under their control. For the purpose of such examination, the [department] commissioner shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

A report of the examination shall be forwarded to the chairman of the board of each credit union. The report shall contain comments relative to the management of the affairs of the credit union and also as to the general condition of its assets. Within thirty days after the receipt of the report a general meeting of the directors and [committeemen] committeepersons shall be called to consider matter

contained in the report. A reply to the [department] commissioner shall be forwarded by the board of directors if comments are required by the [department.] commissioner.

For the purpose of the examinations each credit union shall pay an examination fee based upon the cost of performing the examination and which bear a proportionate share of the expenses of the [department,] commissioner, in accordance with schedules adopted by the commissioner after approval has been secured from the credit union review board.

In lieu of making an annual examination of any credit union, the commissioner may accept an audit report of the financial condition of the credit union made by a licensed public accountant or any other qualified person or organization approved by the commissioner. The expenses for conducting such an audit shall be paid by the credit union."

8. By amending section 410-28 to read as follows:

"[[§410-28]] **Dissolution; voluntary liquidation.** [Upon the unanimous recommendation of the board of directors, the members may vote to dissolve the credit union provided that a majority of the members vote by ballot in person or by letter or other written communication in favor of dissolution, and provided that not more than fifteen members or ten per cent of the total membership, whichever is greater, by written notice, object thereto. A committee of three shall thereupon be elected to liquidate the assets of the credit union. Members may be paid a liquidating dividend in proportion to their savings after the debts of the credit union have been paid. The committee in charge of liquidation shall have the power and authority to sell or dispose of the assets in whole or in part at a public or private sale subject to confirmation by the board of directors and the commissioner.] (a) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

(b) The board of directors shall adopt a resolution recommending the voluntary dissolution of the credit union and requesting that the liquidation question be submitted to the members.

(c) Not later than ten days after the board of directors decides to submit the liquidation question to the members, the chairman shall notify the commissioner and any government agency or other organization insuring member accounts thereof, in writing, setting forth the reasons for the proposed liquidation. Not later than ten days after the members act on the liquidation question, the chairman of the board of directors shall notify the commissioner and any government agency or other organization insuring member accounts, in writing, of the action of the members on the liquidation question.

(d) As soon as the board of directors decide to submit the liquidation question to the members, all business affairs of the credit union, including, but not limited to, payments on and withdrawal of shares, share certifications, share drafts, deposits, and deposit certificate, the transfer of shares to loans and interest, making investments of any kind, and issuing loans, shall be suspended until the members act on the liquidation question. Upon approval by the members, all business transactions of the credit union shall be permanently discontinued. Necessary expenses of operation, however, shall continue to be paid upon authorization by the board of directors or the liquidating agent during liquidation.



(e) An affirmative majority vote by the members by ballot, in person, by letter, or other written communication, is necessary for a credit union to enter into voluntary liquidation. Whenever authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by first-class mail, at least ten days prior to such meeting.

(f) A liquidating credit union shall remain in existence for the purpose of discharging its debts, collecting its loans, distributing its assets, and any other necessary functions in order to conclude its business. A liquidating credit union may sue or be sued for the purpose of enforcing its debts and obligations until its affairs are completed.

(g) The board of directors or the liquidating agent who may be the insurer shall use the assets of the credit union to pay:

- (1) First, the expenses incidental to liquidation including any surety bonds required during liquidation;
- (2) Second, any liability due to nonmembers;
- (3) Third, the deposits and deposit certificates of the members of the credit union;
- (4) Fourth, the remaining assets shall be distributed to the members in proportion to the number of shares held by each member on the date the dissolution was approved by the members.

(h) When the board of directors or the liquidating agent determines that all assets of the credit union having a reasonable expectancy of realization have been liquidated and distributed as provided in this section, the board or the liquidating agent, whichever is applicable, shall complete a certificate of dissolution on a form prescribed by the commissioner. Upon the completion of such certificate, the board or the liquidating agent, whichever is applicable, shall file such certificate, together with all pertinent books and records of the liquidating credit union, with the commissioner for the complete dissolution and liquidation of the credit union."

9. By amending sections 410-30 to 410-33<sup>4</sup> to read as follows:

**"[[§410-30]] Taxation.** All credit unions, now or hereafter chartered under this chapter shall have the same immunity from state and local taxation that federally chartered credit unions have from time to time under the laws of the United States government.

**[[§410-32]] Conversion.** [into federal credit union. A credit union may convert itself into a federal credit union by the following procedures:

- (1) Upon recommendation of the board of directors the members of any credit union may by an affirmative majority vote of its members resolve to convert such credit union into a federal credit union;
- (2) Within ten days after the meeting at which the members determine to convert into a federal credit union, the credit union shall file in the office of the commissioner a certificate verified by the affidavit of the board of directors of such credit union. The certificate shall contain a copy of the minutes of the meeting and a statement that the members have approved the determination to convert such credit union into a federal credit union. A like certificate shall be filed with the department of regulatory agencies;
- (3) A certified copy of the certificate filed with the department is presump-

- tive evidence of the holding of the meeting and the action taken thereat;
- (4) After the meeting of the members, the credit union shall take such action as is necessary to make it a federal credit union, and within ten days after receipt of the federal charter, the credit union shall file in the office of the commissioner and with the department, a copy of the charter issued to such credit union by the National Credit Union Administration or a certificate showing the organization of such credit union as a federal credit union certified by or on behalf of the National Credit Union Administration. Upon the filing of such instrument with the department, the credit union ceases to be a state credit union and is a federal credit union;
  - (5) At the time the conversion into a federal credit union becomes effective, the credit union ceases to be supervised by this State and all of the property of the credit union including all of its right, title, and interest in and to all property of every kind, and character immediately, by operation of law and without any conveyance, or transfer and without any further act or deed, is vested in the credit union under its new name and style as a federal credit union and under its new jurisdiction; and
  - (6) The converted federal credit union shall have, hold, and enjoy the property in its own right as fully and to the same extent as the property was possessed, held, and enjoyed by it as a state credit union and the federal credit union shall continue responsible for all of the obligations of the state credit union to the same extent as though the conversion had not taken place. The federal credit union shall be merely a continuation of the state credit union under a new name and new jurisdiction and such revision of its corporate structure as is considered necessary for its proper operation under the new jurisdiction.] (a) A credit union incor-

porated under the laws of this State may be converted to a credit union organized under the laws of the United States or any other state, subject to rules adopted under chapter 91 by the commissioner.

(b) A credit union organized under the laws of the United States or any other state may convert to a credit union incorporated under the laws of this State. During such conversion, a credit union shall comply with all the requirements of the jurisdiction under which it was originally organized and the rules of the commissioner. Each credit union, during its conversion, shall submit to the commissioner proof of its compliance with all laws of the original jurisdiction.

[[§410-33]] Merger [and consolidation of credit unions]. [(a) Any two or more credit unions, having a membership with similar associational, community, or occupational interest or with a similar common bond, as elsewhere defined in this chapter, may merge or consolidate into a single credit union. Such merger or consolidation may be with a credit union organized under this chapter or of the United States government and shall be subject to the approval of the commissioner. It shall be made on such terms as shall have been agreed upon by a vote of a majority of the board of directors of each credit union, and approved by a majority of the members of each credit union either in person or by proxy, at meetings of the members of each credit union affected called for that purpose. Notice of the meetings stating the purpose thereof shall be sent by the secretary of each credit

union to each member thereof by United States mail at least seven days before the date of the meeting.

(b) One of the merging credit unions may continue after the consolidation either as a surviving credit union retaining its identity or as a new credit union as has been agreed upon under the terms of the merger. If a new credit union is to be organized under the terms of the merger, thereupon, at least fifteen members of the new proposed credit union shall apply to the credit union division for permission to organize the new credit union. The same procedure shall be followed and the same rules govern as elsewhere provided for the organization of a new credit union.

(c) A merger of two or more credit unions may be permitted with one of the merging credit unions continuing as the surviving credit union and the geographical limitations and similar associational or occupational interest as required by section 410-11 may be disregarded by the commissioner where the credit union seeking such a merger is forced to liquidate through loss of parent associational or occupational sponsorship; provided, the commissioner finds that such merger would benefit the members and be consistent with the purpose of this chapter. The merger or consolidation shall be made on such terms as shall have been agreed upon by a vote of the majority of the board of directors of each credit union, and approved by a majority of the members of each credit union, either in person or by proxy, at meetings of the members of each credit union affected, called for that purpose. Notice of the meetings, stating the purpose thereof, shall be sent by the secretary of each credit union to each member thereof by United States mail at least seven days before the date of the meeting.

Each merging credit union, by its president and secretary, shall submit to the credit union division a petition to merge, which shall contain the terms of the agreement and the members' approval thereof on forms prescribed by the commissioner. The commissioner shall thereupon act on the petition and if his decision is favorable he shall issue to each merging credit union a certificate approving the merger. The merging credit union shall return to the commissioner its charter and bylaws. The surviving credit union shall continue its operation under its original charter and bylaws. Any rights to membership or any obligation or liability of any member in any such credit union, which is party to the consolidation or merger, shall be continued in the new credit union. A pending action or other judicial proceeding to which any of the consolidating or merging credit union is a party shall not abate by reason of the consolidation or merger.] (a) Any credit union, with the approval of the commissioner, may merge with another credit union under the existing charter of the other credit union, pursuant to any plan agreed upon by the majority of members of each board of directors of each credit union involved in the merger. The plan shall be approved by an affirmative majority vote of the members of the merging credit union present at a meeting for such purpose and consented to by any government agency or other organization insuring the accounts of the credit union.

(b) After agreement by the directors and approval by the members of the merging credit union, the chairperson and secretary of the credit union shall execute a certificate of merger stating:

- (1) The time and place of the meeting of the board of directors at which the plan was agreed upon;
- (2) The vote in favor of the adoption of the plan;

- (3) A copy of the resolution or other action by which the plan was agreed upon; and
- (4) The time and place of the meeting at which the plan agreed upon was approved by the members.
- (c) The certificate and a copy of the merger plan shall be forwarded to and certified by the commissioner, and returned to both credit unions not later than thirty days after the certification.
- (d) Upon return of the certificate from the commissioner, all property, property rights, and members' interest of the merged credit union shall vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under whose charter the merger was effected. The rights and privileges of the members of the merged credit union shall remain intact.
- (e) This section shall be construed, whenever possible, to permit the merger of any two credit unions organized under this chapter or the merger of any credit union organized under this chapter with another credit union organized under any other federal or state law."

10. By amending section 410-35 to read as follows:

"~~[[[§410-35]]]~~ **Possession by the commissioner.** [(a) The commissioner may forthwith take possession and control of the business and property of any credit union to which this chapter is applicable whenever he finds a credit union violating this chapter or that the credit union:

- (1) Is conducting its business contrary to law;
- (2) Has violated its charter, or any law;
- (3) Is conducting its business in an unauthorized or unsafe manner;
- (4) Is in an unsound or unsafe condition to transact its business;
- (5) Has an impairment of its capital;
- (6) Cannot with safety and expediency continue business;
- (7) Has suspended payment of its obligations;
- (8) Has neglected or refused to comply with the terms of a duly issued order of the commissioner;
- (9) Has refused to submit its books, papers, records, or affairs for inspection to any examiner or person appointed by the commissioner;
- (10) Has refused to be examined upon oath regarding its affairs; and
- (11) The commissioner may suspend for a period up to one hundred twenty days the business or any officer, director, committee member, or employee of any credit union for the aforementioned conduct.

(b) (a) Upon taking possession of the business and property of the credit union the commissioner shall forthwith:

- (1) Serve a notice in writing upon the [president] chairman and secretary of the credit union setting forth that [he] the commissioner has taken possession and control of the business and property of the credit union. The notice shall be executed in duplicate, and immediately after the same has been served, one of the notices shall be filed with the clerk of the circuit court in the county where the credit union is located together with proof of service.

- (2) Give notice to all individuals, partnerships, corporations, and associations known to the commissioner to be holding or in possession of any assets of the credit union.

The commissioner may revoke the credit union's charter, appoint one or more liquidating agents to assist in the duty of liquidation and distribution of the assets of [one or more credit unions] the credit union of whose business and property the commissioner shall have taken possession pursuant to this chapter[. A certificate of such appointment shall be filed in the office of the commissioner and a certified copy in the office of the clerk of the circuit court for the county in which the credit union is located. The commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of the credit union, and may retain such of the officers or employees of the credit union as he deems necessary. The liquidating agent and assistants shall furnish such security for the faithful discharge of their duties as the commissioner deems proper. The liquidating agent may execute, acknowledge, and deliver any and all deeds, assignments, releases, or other instruments necessary and proper to effect any sale and transfer or incumbrance of real estate or personal property and may borrow for use in the liquidation after the same has been approved by the commissioner and an order obtained from the circuit court of the county in which the credit union is located as hereinafter provided.

Upon taking possession of the property and business of the credit union, the liquidating agent may collect all moneys due to such credit union, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as herinafter provided. He shall collect all debts due and claims belonging to it, and upon a petition approved by the commissioner and upon order of the circuit court of the county in which such credit union is located, may sell or compound all bad or doubtful debts, or do any act or execute any other necessary instruments and upon like petition and order may sell all the real and personal property of such credit union on such terms as the court shall approve.

(c) The liquidating agent shall cause a notice, as required by the laws of the State, to be published, calling on all persons who may have claims against such credit union, to present the same to the liquidating agent and make legal proof thereof at a place and within a time, not earlier than the last date of publication, to be therein specified. He shall mail a similar notice to all persons at their last known address, whose names appear as creditors upon the books of the credit union. Proof of service of such notice shall be filed with the clerk of the court. The liquidating agent may reject any claim. Any party interested may also file written objections to any claim with the liquidating agent and after notice by registered mail of the rejection, the claimant shall be barred unless he commences an action thereon within three months. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets then in the hands of the liquidating agent equitably applicable thereto.

(d) Upon taking possession of the property and assets of the credit union, the liquidating agent shall make an inventory of the assets of the credit union, in duplicate, one to be filed in the office of the commissioner and one in the office of the clerk of the circuit court for the county in which the credit union is located. Upon the expiration of the time fixed for the presentation of claims the liquidating agent

shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the commissioner, and one in the office of the clerk of the circuit court for the county in which the credit union is located. The inventory and list of claims shall be open at all reasonable times to inspection.

(e) The value of shares pledged upon a loan to such credit union shall be applied and credited to the loan and the borrower shall be liable only for the balance. The rate of interest charged upon such balance shall be the legal rate. The value shall be determined in such manner as the commissioner may prescribe. Upon the approval of the value by the commissioner and the circuit court of the county in which such credit union is located, the book value of each member will be determined. At least five days written notice of the determination of value shall be given to all shareholders of the time and place the value shall be submitted to the circuit court for approval. Should any shareholder of the credit union feel aggrieved by the determination of value, he may at any time within fifteen days after the mailing of notice by the commissioner, addressed to the last known address of the party, giving notice of the determination and value of the shares, appeal to the supreme court of the State.], and liquidate the credit union.

[(f)] (b) The compensation of the liquidating agent, counsel, and other employees and assistants, and all expenses of supervision and liquidation shall be fixed by the commissioner, subject to the approval of the circuit court for the county in which the credit union is located, and shall upon the certificate of the commissioner be paid out of the funds of the credit union. Expenses of supervision and liquidation shall include the cost of the service rendered by the credit union division to the credit union being liquidated and shall be determined from time to time by the commissioner and shall be paid to the office of the commissioner from the assets of the credit union as other expenses of liquidation are paid. The moneys collected by the liquidating agent shall be from time to time deposited in one or more banks or corporate credit union domiciled in the State.

[(g) At any time after the expiration of the date fixed for the presentation of claims, the special deputy commissioner in charge of the liquidation of the credit union may, upon a petition approved by the commissioner and an order of the circuit court of the county in which the credit union is located, out of the funds remaining, after the payment of expenses and debts, declare one or more dividends, and may declare a final dividend to be paid to the persons, and in such amounts as may be directed by the circuit court.

(h) Immediately upon filing the notice as provided for in subsection (b) the possession of all assets and property of such credit union of every kind and nature, wheresoever situated shall be deemed to be transferred from such credit union to, and assumed by the commissioner and filing of the notice mentioned herein, shall of itself, and without the execution or delivery of any instruments of conveyance, assignment, transfer, or endorsement, vest the title to all the assets and property in the commissioner. The filing shall also operate as a bar to any attachment, garnishment, execution, or other legal proceedings against such credit union, or its assets and property, or its liabilities.

(i) No credit union shall have a lien, or charge for any payment, advance, or clearance made, or liability thereafter incurred, against any of the assets of the

credit union of whose property and business the commissioner shall have taken possession.

(j) (c) Whenever any credit union, whose property and business the commissioner has taken possession of deems itself aggrieved thereby, it may, at any time within ten days after such taking, appeal to the credit union review board for relief from the possession by the commissioner. In the event the credit union review board sustains the commissioner, the credit union may then at any time within ten days after the decision of the credit union review board, apply to the circuit court of the county in which the credit union is located to enjoin further proceedings; and the court, after requesting the commissioner to show cause why further proceedings should not be enjoined and hearing all allegations and proofs of the parties and determining the facts, may, upon the merits dismiss the application or enjoin the commissioner from further proceedings, and direct [him] the commissioner to surrender the business and property to the credit union.

[(k) (d) Whenever the commissioner shall have taken over the possession and control of the business and property of any credit union, the same may resume business when and if:

- (1) The owners of at least two-thirds of the credit union dollar value of outstanding shares, execute a petition to such effect, the form of which shall be prescribed by the commissioner;
- (2) There is submitted to the commissioner by the shareholders or a committee duly selected by them, a plan for the reorganization and reinstatement of the credit union;
- (3) The commissioner recommends that control of the business and property of the credit union be returned to the shareholders; and
- (4) The court in which the liquidation is pending, upon application of the commissioner, makes an order approving the commissioner's recommendations, which order shall contain a finding that the credit union will be in a safe and sound condition when control is resumed by the shareholders.

[(l) (e) The credit union may also resume business upon a restricted basis, and upon such limitations and conditions as may be prescribed by the commissioner when approved by the circuit court in and for the county in which such credit union is located, upon application of the commissioner. The restrictions and conditions may include, among others, a prohibition against the selling of shares, reasonable restrictions upon withdrawals, and the payment of other liabilities. The credit union shall thereupon be relieved from the control and supervision of the commissioner as provided in this section, but nothing herein shall, in any manner, prohibit the commissioner from again proceeding against the credit union as provided herein.

[(m) Disposition of liquidating dividends and unclaimed funds:

- (1) Unclaimed liquidating dividends and unclaimed funds remaining unpaid in the hands of the liquidating agent for six months after the order for final distribution shall be deposited by him in one or more banks domiciled in the State, to the credit of the commissioner, in trust for the several shareholders and creditors.

The commissioner shall include in his annual report to the governor, the

names of credit unions so taken possession of and liquidated, and the sums of unclaimed and unpaid liquidating dividends and unclaimed funds with respect to each of them respectively, including a statement of interest earned upon the funds.

- (2) The commissioner may pay over the moneys held by him to the persons respectively entitled thereto, upon being furnished satisfactory evidence of their right to the same. In case of doubt or conflicting claims, he may require an order of the circuit court authorizing and directing the payment thereof. He may apply the interest earned by the moneys held by him towards defraying the expenses in the payment and distribution of the unclaimed liquidating dividends and funds to the stockholders and creditors entitled to receive the same.
- (3) After one year from the time of the order for final distribution, all unclaimed funds shall be turned over to the department of budget and finance by the commissioner and shall be kept in a separate fund. All claims subsequently arising shall be presented to the commissioner. If the commissioner determines that any claim so presented is a proper claim against the fund he shall certify to the department of budget and finance the name and address of the person entitled to payment and the amount thereof and shall attach the claim to the certificate. The department shall thereupon make payment of the amount stated in the certificate to the person named thereon.]”

11. By amending section 410-37 to read as follows:

“~~[[[§410-37]]]~~ **Central credit unions.** [Central credit unions may be organized and operated under the conditions and provisions of this chapter and subject to all of the provisions of this chapter not inconsistent herewith. It shall be lawful for other credit unions located in this State to become members of central credit unions. A credit union having membership in a central credit union may be represented at annual or special meetings of the central credit union by one member duly authorized by the board of directors of the member credit union and shall be entitled to one vote, and the representative shall be eligible for office in the central credit union the same as though he were a member of the central credit union. The representative must be a member of the credit union he is representing while he is a representative.

A central credit union may pay to the accounts of member credit unions dividends on a basis other than that required by this section for other members of a central credit union. The dividends may be considered as a legitimate expense of the central credit union's operation and the rate of the dividends and terms of payment may be established and guaranteed in advance by action of the central union's board of directors. Any resident in the State who is not eligible for membership in any credit union in the State may be eligible for membership.] (a) A central credit union may be incorporated under this chapter and shall be subject to all provisions not inconsistent with this section.

(b) Membership in any central credit union may include, but not be limited to:

- (1) Officers, directors, committee members, and employees of credit unions organized under this chapter or any other law; the officers, directors, and



- employees of associations of credit unions; and employees of federal or state government agencies responsible for the supervision of credit unions in this State.
- (2) Employees of an employer having an insufficient number of employees to form or conduct the affairs of a separate credit union.
  - (3) Persons in the field of membership of liquidated credit unions or of credit unions which have entered into or will enter into voluntary or involuntary liquidation proceedings.
  - (4) Members of the immediate families of members qualifying under this subsection.

12. By amending section 410-39 to read as follows:

“~~[[[§410-39]]]~~ **Credit union services.** A credit union may:

- (1) If the need and necessity exists, establish subsidiary offices within the State with the approval of the commissioner;
- (2) Share office space with one or more credit unions and contract with a corporation to provide facilities or personnel;
- (3) Provide nonprofit financial counseling;
- (4) Charge for perfection of security interest and investigations of borrowers;
- (5) Issue third-party checks upon request of the member;
- (6) Provide pension savings programs and deferred income accounts;
- (7) Purchase or acquire conditional sales contracts or similar instruments executed by credit union members; [and]
- (8) Participate in any electronic funds transfer system;
- (9) Provide credit and debit card services to members;
- (10) Provide share drafts; and
- ~~[(8)]~~ (11) Exercise all powers necessary and proper to carry out the purposes of the credit union.”

13. By amending section 410-43 to read as follows:

“~~[[[§410-43]]]~~ **Expulsion.** The board of directors may expel a member from the credit union who neglects or refuses to comply with this chapter or the bylaws, or for any other just cause; but no member may be expelled until [he has been] informed in writing of the charges [against him,] and given an opportunity to refute the charges [against him] at a combined meeting of the board of directors and the audit committee. After the hearing at the combined meeting, the board of directors has the authority to, by majority vote, reinstate or expel the member. The member may appeal the board of directors' decision to the credit union review board. The amounts paid in on shares by any members who have been expelled shall be paid to such member after deducting any amounts due by such member to the credit union; provided that such expulsion shall not relieve the expelled member from any remaining liability to the credit union.”

14. By amending section 410-45 to read as follows:

“~~[[[§410-45]]]~~ **Application for and share insurance coverage.** (a) All credit unions chartered under this chapter, or credit unions in operation at the time of issuance of a charter under this chapter must apply for share insurance coverage, within one hundred twenty days of the date of the charter, from [the administrator of] the National Credit Union Administration, other governmental agency, or a commer-

cial corporation especially organized to provide share insurance coverage. Whenever a credit union attempts to secure share insurance coverage from a governmental agency or a commercial corporation other than from [the administrator of] the National Credit Union Administration, the board of directors of the credit union must first obtain approval from the commissioner that the governmental agency or commercial corporation is acceptable as an organization capable of providing share insurance for credit unions chartered under this chapter.

(b) A credit union which does not obtain share insurance coverage within one hundred eighty days after the date of its charter must meet the share insurance requirements and obtain the insurance coverage within a two-year period from the date of notice that it did not meet the requirements. Credit unions that do not obtain share insurance coverage as specified in this section shall be liquidated by the commissioner in accordance with section 410-35.

(c) The credit union shall notify any governmental agency or other organization insuring the accounts of the credit union of any change relating to the corporate status of the credit union, including liquidation, merger, suspension, and conversion.

15. By repealing section 410-27.

16. By repealing section 410-42.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.<sup>5</sup>

SECTION 4. This Act shall take effect on July 1, 1983 but shall not affect any rights and duties that matured, penalties that were incurred, and proceedings begun prior to July 1, 1983.

(Approved June 16, 1982.)

**Notes**

1. "The" should be underscored.
2. The "," should be underscored.
3. The "," should not be underscored.
4. All of HRS §410-31 was bracketed and therefore is repealed.
5. Edited pursuant to HRS §23G-16.5.

ACT 259

H.B. NO. 3117-82

A Bill for an Act Relating to Housing Cooperatives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
LIMITED-EQUITY HOUSING COOPERATIVES**

§ -1 **Definitions.** As used in this chapter, unless otherwise indicated by the context:

- (1) "Corporate equity" means the excess of the current fair market value of the corporation's assets, including its real property, over the sum of the current transfer values of all shares or membership interests, reduced by the principal balance of outstanding encumbrances upon the corporate real property as a whole.
- (2) "Limited-equity housing cooperative" means a stock cooperative corporation which is organized as a nonprofit corporation under sections 416-19 and 416-26 for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy; provided the corporation also:
  - (A) Is organized so that the consideration paid for an individual membership share by the first occupant following construction or acquisition by the corporation, including the principal amount of obligation incurred to finance the membership share, does not exceed seven per cent of the respective dwelling unit's development cost, acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater; and
  - (B) Holds title to real property as the beneficiary of a trust providing for distribution for public or charitable purposes upon termination of the trust; or
  - (C) Holds title to real property subject to conditions which will result in reversion to a public or charitable entity for affordable housing upon dissolution of the corporation; or
  - (D) Holds a leasehold interest conditioned on the corporation's continued qualification under this chapter and providing for reversion to a public entity or charitable corporation for affordable housing.

§ -2 **Charter of incorporation.** (a) The charter of incorporation and bylaws shall require the purchase and sale of the stock of resident owners who cease to be residents, at not more than a transfer value determined as provided in the charter and bylaws, and which shall not exceed the aggregate of the following:

- (1) The consideration paid for the membership share by the first occupant of the unit involved, as shown on the books of the corporation.
  - (2) Accumulated interest, or an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market-interest index. Any increment pursuant to this paragraph shall not exceed a ten per cent annual increase on the consideration paid for the membership or share by the first occupant of the unit involved.
  - (3) The value, as determined by the board of directors of the corporation, of any improvements installed at the expense of the member with the prior approval of the board of directors.
  - (4) No other charges, fees, premiums, taxes, or payments or exchanges of any kind may be imposed, assessed or made a condition of any transfer.
- (b) The charter of incorporation and bylaws shall require the board of

directors or corporate members to sell the stock purchased as provided in subsection (a), to new resident shareholders at a price which does not exceed the transfer value paid for the unit. Upon termination or dissolution of the corporation, the then existing stockholders shall be paid an amount that does not exceed the transfer value of their share.

(c) Amendment of the charter of incorporation shall require the affirmative vote of at least two-thirds of the resident shareholders.

(d) The charter of incorporation and bylaws shall require:

- (1) The corporation issue only one class of stock;
- (2) One share shall be issued for each dwelling unit in the cooperative;
- (3) Voting rights shall be based upon one share, one vote; and
- (4) Each shareholder shall be a resident of the unit represented by the share held.

(e) The charter of incorporation and bylaws shall require a provision that there shall not be any social, political, racial, or religious discrimination nor any discrimination on the basis of age, sex, marital or parental status, subject only to limitations under applicable federal, state, or county laws, rules, or regulations.

§ -3 Contents of bylaws. The bylaws shall provide at least the following:

- (1) The election of a board of directors, the number of persons constituting the board, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the method of removal from office of directors; and whether or not the board may engage in services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the shareholders; what percentage, if other than a majority of shareholders constitutes a quorum; and what percentage, consistent with this chapter, is necessary to adopt decisions binding on all shareholders.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property; determination and collection of monthly carrying charge for each unit.
- (7) Designation and removal of personnel necessary for maintenance and repair.
- (8) Method of adopting and amending administrative rules and regulations governing the details of the operation and use of corporate property.
- (9) Two-thirds of the shareholders may at any time modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (10) All members of the board of directors except for initial provisional

directors shall be shareholders. There shall not be more than one representative on the board of directors from any one dwelling unit.

- (11) A director shall not vote at any board meeting on any issue in which the director has a conflict of interest.
- (12) No employees of the cooperative shall serve on the board of directors.
- (13) The board of directors shall meet at least once a year.
- (14) Notices of shareholder's meetings, whether annual or special, shall be delivered to each shareholder at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting; the place of such meeting; and the items on the agenda of such meetings.
- (15) All board of directors' meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (16) The shareholders may require, by vote at the annual meeting, a yearly audit of the corporate books by a certified public accountant.
- (17) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to such meeting.
- (18) That the minutes of meetings of the board of directors, shareholders, and the corporation's financial statements shall be available for examination by shareholders at convenient hours at a place designated by the board.

§ -4 **Use of corporate equity.** (a) The corporate equity shall not be used for distribution to members, but only for the following purposes, and only to the extent authorized by the board, subject to the provisions and limitations of the charter of incorporation and bylaws:

- (1) For the benefit of the corporation or the improvement of the real property, including its use as collateral for loans authorized under section 403-98.
- (2) For expansion of the corporate equity by acquisition of additional interest in real property for purposes consistent with its charter.
- (3) For public benefit or charitable purposes.

(b) Upon sale of the property, dissolution of the corporation, or occurrence of a condition requiring termination of the trust or reversion of title to the real property, the corporate equity shall be required by the charter, bylaws, or trust or title conditions to be paid out, or title to the property transferred, subject to outstanding encumbrances and liens, and the transfer value of membership shares, for use for a public or charitable purpose.

(c) The membership shares and cooperative fees are interests in real property for purposes of:

- (1) Cooperative housing corporations under section 216 of the federal Internal Revenue Code of 1954, as amended;
- (2) Exemption from state general excise tax under section 237-24(17); and
- (3) Exemption from real property tax under sections 246-26 and 246-27(3).

§ -5 **Exemption.** No stock of any limited equity housing cooperative organized or existing under this chapter shall be subject to chapter 485."

SECTION 2. Section 416-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In general. No nonprofit corporation shall have or issue shares of stock except for limited-equity housing cooperatives, and no dividends shall be paid and no part of the income of such corporation shall be distributed to its members, directors, or officers, except upon the liquidation of the property of the corporation in case of corporate dissolution. A nonprofit corporation may pay compensation in a reasonable amount to its members, directors, or officers, for services rendered, and may confer benefits upon its members in conformity with its purposes. No loans shall be made by a nonprofit corporation to its directors or officers. The directors of a nonprofit corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of the loan, shall be jointly and severally liable to the corporation for the amount of the loan until the repayment thereof.”

SECTION 3. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . LIMITED-EQUITY HOUSING COOPERATIVES**

**§359G- Development priority.** The Hawaii housing authority shall give priority to those developments which are proposed to be organized as limited-equity housing cooperatives, and where feasible shall require that developments other than single-family residences be organized as limited-equity housing cooperatives.

**§359G- Qualifications for loans.** The Hawaii housing authority may insure loans for the financing of limited-equity housing cooperatives; provided that at least twenty per cent of occupancy is limited to persons and families of low or moderate income.”

SECTION 4. Section 359G-1.1, Hawaii Revised Statutes, is amended by amending the definition of “eligible developer” to read:

“(2) “Eligible developer” means any person, partnership, cooperative, firm, nonprofit or profit corporation, or public agency determined by the authority:

- (A) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
- (B) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
- (C) To be fully capable, on the basis of experience and reputation, to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute, if applicable; and
- (D) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this chapter.

“Eligible developer” includes limited-equity housing cooperatives as defined in section -1(2) which provide housing for persons and fami-

lies of low or moderate income.”

SECTION 4.<sup>1</sup> New statutory material is underscored.

SECTION 5.<sup>1</sup> This Act shall take effect upon its approval.

(Approved June 16, 1982.)

**Note**

1. Should be SECTIONS 5 and 6.

**ACT 260**

H.B. NO. 1963-82

A Bill for an Act Relating to the Donation of Food.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and Purpose.** The legislature finds that over the past several years, spiraling food costs have had an adverse effect on the budgets of all consumers, especially those in lower income brackets. Although the food stamp program serves approximately ninety thousand of Hawaii's people, there are still an estimated eighty to ninety thousand people who are either hungry or malnourished.

Accordingly, it is the purpose of this Act to encourage persons engaged in farming, processing distributing, wholesaling, or retailing of food products to donate these items to charitable, religious, and non-profit organizations which distribute food to the needy.

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

**“CHAPTER  
DONATION OF FOOD**

§ -1 **Definitions.** (a) Whenever used in this chapter unless the context otherwise requires:

- (1) “Charitable, religious, or nonprofit organization” means any organization which was organized and is operating in the State for charitable or religious purposes or to promote social welfare, as defined in section 235-9(a)(2) and which distributes food products at no cost to needy persons.
- (2) “Donor” means any person, partnership, corporation, company, or association engaged in the farming, processing, distribution, wholesaling, or retailing of food products who donates such products, without remuneration, to a charitable, religious, or nonprofit organization.
- (3) “Food product” means any fowl, seafood, animal, vegetable, or other stuff, product, or article which is customary food fit for human consumption.
- (4) “Needy person” means any person who lacks adequate or proper means of subsistence.

§ -2 **Exceptions to liability.** (a) Any donor of food products, who in good

faith donates the food for the use or distribution by a charitable, religious, or non-profit organization to needy persons shall not be liable for any civil damages or criminal penalties for any injuries or illnesses including, but not limited to injuries or illnesses resulting from the nature, age, condition, packaging, or handling of the donated food products, except for such damages as may result from the donor's gross negligence or wanton acts or omissions.

(b) A charitable, religious, or nonprofit organization which in good faith receives food, apparently fit for human consumption, and distributes it to needy persons at no charge, shall not be liable for any civil damages or criminal penalties resulting from the condition of the food unless an injury or illness results from its gross negligence, or wanton acts or omissions.

(c) This section shall not relieve any organization from any other duty imposed upon them by law for the inspection of donated food products or for any provisions regarding the handling of such products.

§ -3 **Sale of donated food, prohibited; fines.** (a) No person or organization shall sell, or offer for sale, any food product donated or distributed under this chapter.

(b) Any violation of this section is punishable by a fine not to exceed one thousand dollars.

§ -4 **Labeling of donated food.** Any charitable, religious, or nonprofit organization which receives and distributes donated food pursuant to this chapter shall affix a label upon such food or upon the individual container or package of such food stating that the food is not for resale and stating that it was fit for human consumption at the date that it left control of the charitable organization.

§ -5 **Reserving the State's authority to regulate, inspect, or ban the use of donated food.** Nothing in this chapter is intended to restrict the authority of the department of health or the department of agriculture to regulate, inspect, or ban the use of such donated foods for human consumption."

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

(Approved June 16, 1982.)

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that it is the policy of the State to support, improve, and enhance Hawaii's system of education, not only as a whole but also at the level of the individual school. The legislature recognizes that schools are different, each with its own special strengths and weaknesses. The legislature further recognizes that in certain matters, the schools are the best arbiters of their individual priorities and needs.

The purpose of this Act, therefore, is to establish a new form of educational resource, to be known as the school priority fund, to provide schools with greater authority, responsibility, and means to plan, budget, administer, and be held accountable for programs which address their unique needs.



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

## “CHAPTER SCHOOL PRIORITY FUND

§ -1 **School priority fund; established.** There is established within the department of education a school priority fund which shall be used to augment regular instruction and other educational services at the discretion of the individual public schools. Further, it is the intent of the legislature that the school priority fund be used to promote the equitable distribution of educational resources statewide, to strengthen the scope of decision making and increase flexibility in resource allocation at the school level, and to provide a systematic method of conforming resource allocation to the unique needs and priorities of individual schools.

§ -2 **Definitions.** As used in this chapter:

- (1) “Enrollment” means the number of students registered in the regular public schools, with each regular student and each special student being counted as one;
- (2) “Moneys” means funds which are not committed to positions; and
- (3) “School priority fund” includes moneys which may be appropriated and allotted separately for elementary schools and for secondary schools, and appropriated instructional resource augmentation positions which shall be allotted for the elementary schools.

§ -3 **Distribution of resources.** (a) The superintendent of education shall allot the moneys of the school priority fund to the school districts based on enrollment. In the allotment of positions to the districts, the superintendent shall calculate each district’s entitlement based on enrollment and shall deploy or redeploy positions beginning September, 1983, such that each district will be provided with its full entitlement of positions by September, 1985.

(b) The district superintendents may withhold up to seven per cent of their district allotment of moneys for a reserve which may be used, first, to ensure that any elementary school may continue its participation in the Hawaii English Program at its fiscal 1981-82 level, and second, for such purposes as unforeseen enrollment increases, compliance with comparability requirements, emergency school need for funds, and special school projects that directly benefit students. After deducting the district reserve, the district superintendents shall allot the balance of the moneys to the schools based on enrollment. In the allotment of positions to the schools, the district superintendents shall strive for equity using enrollment as a guide without unduly fractionating individual positions.

(c) The district superintendents may transfer moneys in an equitable manner among schools in the event of significant shifts in enrollment.

§ -4 **Use of resources by schools.** School principals shall consult with teachers, and to the extent practicable, with parents and students, to solicit their advice on the use of the moneys and positions. Prior to expending moneys and implementing position assignments, principals shall submit plans for the use of the moneys and positions to their district superintendents who shall review the plans for conformance with departmental policies and rules. Upon approval of the plans,

moneys may be expended by the principals for supplies, textbooks, equipment, and services. Positions may be used to meet the unique needs of the schools.

§ -5 **Departmental controls.** The superintendent shall develop and implement appropriate planning procedures and follow-up accountability reports, without regard to chapter 91, to ensure sound planning, control, and accountability in the use of the school priority fund. The procedures and reports, however, shall recognize the need for providing the schools latitude and discretion to determine their needs and priorities, and shall avoid imposing undue amounts of paperwork and administrative burdens on the schools.”

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 16, 1982.)

ACT 262

S.B. NO. 732

A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Declaration of findings with respect to the general obligation bonds authorized by this Act.** Pursuant to the clause in Article VII, section 13, of the State Constitution which states: “Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.”, the legislature finds and declares as follows:

- (1) **Limitation on general obligation debt.** The debt of the State is set forth in Article VII, section 13 of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year.”
- (2) **Actual and estimated debt limits.** The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1981-1982 and estimated for each fiscal year from 1982-1983 to 1984-1985, is

as follows:

<b>Fiscal Year</b>	<b>Net General Fund Revenues</b>	<b>Debt Limit</b>
1978-79	\$ 915,099,052	
1979-80	1,056,696,544	
1980-81	1,169,454,257	
1981-82	1,137,818,000	\$209,416,657
1982-83	1,299,200,000	207,444,743
1983-84	1,403,039,000	222,399,123
1984-85	Not applicable	236,803,515

For fiscal year 1981-1982, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by twenty per cent. For fiscal years 1982-83, 1983-84, 1984-85 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1978-79, 1979-80, and 1980-81 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1981, dated November 6, 1981. The net general fund revenues for fiscal years 1981-82 to 1983-84 are estimates, based on general fund revenue estimates made as of March 15, 1981, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. As certified by the director of finance in the most recent Certificate of the Debt Limit of the State of Hawaii dated March 31, 1982, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit is as follows for fiscal year 1982-83 to fiscal year 1988-89:

<b>Fiscal Year</b>	<b>Principal and Interest</b>
1982-83	\$150,906,199
1983-84	146,220,338
1984-85	147,609,613
1985-86	141,082,775
1986-87	134,931,065
1987-88	128,946,377
1988-89	121,578,064

The Certificate of Debt Limit as of March 31, 1982 further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1989-90 to fiscal year 2012 when the final installment of \$15,347 shall be due and

payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund reports as of December 31, 1981, the total amount of authorized but unissued general obligation bonds, is \$492,718,416. The amount of such authorizations reduced by lapsing of appropriations by Senate Bill No. 2829-82<sup>1</sup> is \$19,358,500. The total amount of general obligation bonds authorized by this Act is \$125,135,000. The total amount of general obligation bonds previously authorized and unissued less the amount of such authorizations which have been reduced by the lapsing of appropriations and the general obligation bonds authorized by this Act is \$598,494,916.
- (5) Proposed general obligation bond issuance. As reported in the Executive Budget Supplemental for the Budget Period 1981-83, as it applies the fiscal biennium 1981-83, and as reported by the department of budget and finance for fiscal years 1983-84 and 1984-85, the State proposes to issue \$75,000,000 in general obligation bonds during the remainder of fiscal year 1981-82, three issues of \$75,000,000 each in fiscal years 1982-1983, and \$75,000,000 semi-annually in each of the fiscal years 1983-84 and 1984-85. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the remainder of this fiscal year and in the fiscal years 1982-83 to 1983-84 is \$450,000,000. An additional \$150,000,000 is proposed to be issued in fiscal year 1984-85. The total amount of \$450,000,000 which is proposed to be issued through fiscal year 1983-84 is sufficient to meet the requirements of the authorized and unissued bonds and the bonds authorized by this Act, the total amount of which is \$598,494,916, as reported in paragraph (4), except for \$148,494,916. It is assumed that the appropriations to which an additional \$148,494,916 in bond issuance needs to be applied will have been encumbered as of June 30, 1984. The \$150,000,000 which is proposed to be issued in fiscal year 1984-85 will be sufficient to meet the requirements of the June 30, 1984 encumbrances in the amount of \$148,494,916 with the remaining amount being applied to such other appropriations as the legislature may subsequently authorize. The amount of assumed encumbrances as of June 30, 1984 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund which discloses that the assumed balance of June 30, 1984 encumbrances is lower than the average balance of encumbrances for the past three fiscal years. Thus, taking into account

the amount of authorized and unissued bonds and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1984 and the amount of June 30, 1984 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1984-85, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:

- (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and

- (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as reported in the Certificate of Debt Limit of the State of Hawaii as of December 22, 1981, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 16.52 per cent for the ten years from fiscal year 1982-83 to fiscal year 1991-92. For the purpose of this declaration, the assumption is made that 10 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of fourteen per cent, the maximum allowable by law, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

<b>Time of Issue and Amount of Issue to be Counted Against Debt Limit</b>	<b>Debt Limit at Time of Issuance</b>	<b>Greatest Amount &amp; Year of Principal &amp; Interest</b>
3rd issue remainder FY 1981-82 \$67,500,000	\$209,416,657	\$160,812,613 (FY 1984-85)

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1st half FY 1982-83 \$67,500,000	207,444,743	170,262,613 (FY 1984-85)
1st half FY 1982-83 \$67,500,000	207,444,743	179,903,645 (FY 1985-86)
2nd half FY 1982-83 \$67,500,000	207,444,743	193,106,645 (FY 1985-86)
1st half FY 1983-84 \$67,500,000	222,399,123	202,556,645 (FY 1985-86)
2nd half FY 1983-84 \$67,500,000	222,339,123	212,006,645 (FY 1985-86)
1st half FY 1984-85 \$67,500,000	236,803,515	221,456,645 (FY 1985-86)
2nd half FY 1984-85 \$67,500,000	236,803,515	230,906,645 (FY 1985-86)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to exceed at the time of issuance.

SECTION 2. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Acts 263, 264, and 267, and the settlement authorized in Act 268, passed by this 1982 regular session, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$125,135,000.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 3 the corresponding act numbers for bills identified therein.

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

(Approved June 17, 1982.)

Note

1. Enacted as Act 263.

ACT 263

S.B. NO. 2829-82

A Bill for an Act Relating to Capital Improvement Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Capital Improvements Act of 1982.

SECTION 2. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby authorized for fiscal year 1982-1983 to be expended by the department of accounting and general services, unless otherwise specified in this section, out of moneys in the treasury received from general obligation bond funds.

**I. COUNTY OF HAWAII**

**B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT**

- |   |         |
|---|---------|
| 1. Agricultural Training Facilities Program, Hawaii County Economic Opportunity Council, Island of Hawaii   | 75,000  |
| 2. Consolidation Facilities for Agricultural, Aquacultural and Fishery Products in Hilo, Hawaii   | 125,000 |
| 3. High Technology Industrial Park in Hawaii Planning, design and construction  | 125,000 |
| 4. Multi-Purpose Dehydration Processing Plant in Hawaii — Establishment   | 75,000  |
| 5. Research, Development and/or Demonstration of Energy Products Which Can Be Produced by Puna Sugar Company, Island of Hawaii, or Its Successor, To Improve its Economic Prospects | 125,000 |

**C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

**(To be expended by the Department of Land and Natural Resources)**

- |  |         |
|--|---------|
| 1. Kalopa State Park   | 25,000  |
| 2. Lapakani North Kohala State Park Complex Construction   | 24,000  |
| 3. Richardson Marine Center, Hilo Construction and improvement of facilities and demonstration ponds | 100,000 |

**D. DEPARTMENT OF TRANSPORTATION**

**(To be expended by the Department of Transportation)**

- |   |         |
|---|---------|
| 1. Belt Road, Ka'u<br>Plans and designs for road improvement to deal with flooding problems.  | 25,000  |
| 2. Hilo Harbor Pier<br>Design for modification.   | 175,000 |
| 3. Volcano and Keaau-Pahoia Highway<br>Installation of traffic signal or other safety improvements in vicinity of Keaau.  | 10,000  |
| 4. Wailoa River Project, Hilo Bay, Hilo, Hawaii<br>Study of, mining or dredging sandbar or design and construction of jetty, mouth of Wailoa River, Hilo Bay, Hilo, Hawaii. | 50,000  |

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## E. DEPARTMENT OF EDUCATION

- 1. Konawaena High School Pool 60,000  
Solar heating for Konawaena High School pool.

## H. DEPARTMENT OF HEALTH

- 1. Nursery/Green House for Brantley Center, Honokaa, Hawaii 25,000  
Design, purchase or construction of nursery/green house for Brantley Center in Honokaa, Hawaii.
- 2. Agricultural Greenhouse Facilities 100,000  
Construction of agricultural greenhouse facilities for Kaumana senior citizens and the vocational rehabilitation center in Hilo, Hawaii.
- 3. Kona Association for Retarded Citizens dba Kona Crafts 10,000  
Work activity.
- 4. Kona Hospital 6,000  
Study to convert to operable windows to conserve air conditioning.

## W. COUNTY OF HAWAII

### (To be expended by the County of Hawaii)

- 1. East Hawaii Cultural Council 10,000  
Grant-in-aid for the County of Hawaii.
- 2. Homestead Roads, Third Representative District 25,000  
Funds to be matched by the County of Hawaii.
- 3. Kulaimano Park 25,000  
Plans and construction of Kulaimano Park with funds to be matched by the County of Hawaii.
- 4. Pahoia Recreational Facility 50,000  
Plans and construction for the development of a recreational facility in Pahoia, Hawaii.
- 5. Volcano Community Center 5,000  
Grant-in-aid for the County of Hawaii.

## WW. COUNTY OF HAWAII

### (To be expended by the Department of Water Supply)

- 1. Water Resources Development 1,500,000  
Plans, land acquisition, design, construction and equipment for water resource development for the County of Hawaii.

## II. COUNTY OF MAUI

### A. DEPARTMENT OF AGRICULTURE

#### (To be expended by the Department of Agriculture)

- 1. Tomato Gassing Plant 100,000  
Construction of tomato gassing facility on Maui.

### D. DEPARTMENT OF TRANSPORTATION

#### (To be expended by the Department of Transportation)

- 1. Farrington Avenue, Molokai 50,000  
Design and construction for reconstruction, resurfacing and safety improvements of Farrington Avenue.
- 2. Hana Highway — Huelo to Hana, Maui 250,000  
Basic construction repairs to entire highway in terms of building up shoulder,



repairing holes, replacing guardrails and signs to make entire highway safe and usable.

- |  |        |
|--|--------|
| 3. Kahului Harbor Pier, Maui<br>Engineering of Kahului Harbor Pier.  | 50,000 |
| 4. Puupelua Road, Molokai<br>Design and construction for reconstruction, resurfacing and safety improvements of Puupelua Road. | 50,000 |

#### V. COUNTY OF MAUI

(To be expended by the County of Maui)

- |  |         |
|--|---------|
| 1. Kula Community Center<br>Construction of Kula Community Center.                   | 210,000 |
| 2. Wailuku Community Center, Maui<br>Plans and design of a Wailuku Community Center. | 40,000  |
| 3. Waiehu Beach Road, Maui<br>Plans and design of Waiehu Beach Road drainage.        | 100,000 |

#### VW. COUNTY OF MAUI

(To be expended by the Board of Water Supply)

- |  |           |
|--|-----------|
| 1. Water Resources Development<br>Plans, land acquisition, design, construction and equipment for water resource development for the County of Maui. | 1,000,000 |
|--|-----------|

### III. CITY AND COUNTY OF HONOLULU

#### B. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

- |   |       |
|---|-------|
| 1. Windward Oahu District<br>Plans and design for film sound stage. | 5,000 |
|---|-------|

#### C. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

- |  |         |
|--|---------|
| 1. Ancient Hawaiian Dance Museum<br>Plan, design and construction for an ancient Hawaiian dance museum in the Windward district.   | 80,000  |
| 2. Diamond Head State Monument<br>Design and construction for safety improvements to include road improvement, a 4-foot wide sidewalk, and tunnel lighting.  | 90,000  |
| 3. Twenty-first representative district flood control projects<br>Drainage improvements, including plans, land, design, construction, and equipment for the lower Makaha area between Makaha Valley Road and Jade Street or restoration of the Kaupuni Boulder Basin.  | 80,000  |
| 4. Hawaii Maritime Cultural Exchange Program<br>Plans, design, initiation, and conduct of a Maritime Cultural Exchange Program.  | 7,000   |
| 5. Restoration of the Hawaiian Railway Society, Inc.<br>Continuing restoration of an operating railway line from Waipahu, Oahu, to the Leeward coast, Oahu, including the removal of track from West Loch, Pearl Harbor, restoration of railways, fuel for equipment, and materials for repair of the rail line. | 60,000  |
| 6. Makiki Ditch, Oahu<br>Plans, engineering, and construction of the realignment of Makiki Stream.   | 200,000 |
| 7. Wailupe Valley Land Purchase  | 400,000 |

**ACT 263**

Purchase, for preservation, land parcels or portions of land parcels with Tax Map Key 3-6-24: 01 and 3-6-04: 01.

- |  |         |
|--|---------|
| 8. Kakaako Waterfront Park   | 100,000 |
| Plans, design, and construction for the development of waterfront park and recreational facilities on the Fort Armstrong—Kewalo Peninsula.   |         |
| 9. Pokai Bay Park, Oahu, Completion of Double-Hulled Canoes  | 45,000  |
| Preparation of detailed structural design plans for students and others working on construction of canoes, final progress reports to State and federal agencies, and completion of the second double-hulled canoe. |         |

**D. DEPARTMENT OF TRANSPORTATION**

**(To be expended by the Department of Transportation)**

- |  |         |
|--|---------|
| 1. Kalihi Street Improvements, Nimitz Highway to Dillingham Blvd., Oahu  | 33,500  |
| Construction of asphalt concrete footpath along Koko Head side of Kalihi Street, Nimitz Highway to Dillingham Blvd.                                  |         |
| 2. Kamehameha Highway, Oahu  | 50,000  |
| Planning, design, construction of lights at the bus areas in front of Hawaii Loa College, Kaneohe, Oahu, Hawaii.                                     |         |
| 3. Kamehameha Highway at Waimea Bay, Oahu  | 50,000  |
| Plans and design to prevent the occurrence of landslides.  |         |
| 4. Interstate Route H-2, Oahu  | 110,000 |
| Plans and design for interchange near Mililani Memorial Road.  |         |
| 5. Pearl City Off Ramp   | 30,000  |
| Design and construction to extend deceleration lane, construct additional lane on the off-ramp and on Moanalua Road between ramp and Hoomalu Street. |         |
| 6. North Shore of Oahu   | 14,175  |
| Plans and design for bikepath.   |         |

**E. DEPARTMENT OF EDUCATION**

- |  |         |
|--|---------|
| 1. Castle High School, Oahu  | 25,000  |
| Construction funds for storm-damaged environmental green house.  |         |
| 2. Castle High School, Oahu  | 205,000 |
| Design and construction of environmental green house.  |         |
| 3. Dole Intermediate School, Oahu  | 30,000  |
| Design and construction for the installation of security screens on louver windows for science rooms 21, 31, 51, and 61. |         |
| 4. Farrington High School, Oahu  | 20,000  |
| Design and construction to improve existing facilities and pave student and visitor parking stalls at Gordon Park.       |         |
| 5. Farrington High School, Oahu  | 75,000  |
| Design and construction to improve existing facilities — library structure unsafe.                                       |         |
| 6. Hawaii School for the Deaf and Blind, Oahu  | 4,000   |
| Playground and equipment.  |         |
| 7. Kaawa Elementary School, Oahu   | 20,000  |
| Design and construction for kitchen and dining room.   |         |
| 8. Kaala Elementary School, Oahu   | 20,000  |
| Renovation of baseball backstop.   |         |
| 9. Kaelepulu Elementary School, Oahu   | 20,000  |
| Design and construction of a safety dropoff for students.  |         |
| 10. Kaewai Elementary School, Oahu   | 60,000  |

	Design and construction to improve existing facilities and construct and equip teachers dining room adjacent to the cafeteria.	
11.	Kaimuki High School, Oahu Redesign of the circulation system in the swimming pool.	40,000
12.	Kaimuki High School, Oahu Repair and maintenance.	35,000
13.	Kaiser High School, Oahu Design and construction to renovate band room, replace acoustical tiles on walls and ceilings, repaint and carpet room.	110,000
14.	Kaiser High School, Oahu Design and construction for the renovation of the area under existing stadium bleachers for a girls' athletic weight/locker room facility.	130,000
15.	Kaiser High School, Oahu Purchase of new band instruments and other equipment.	50,000
16.	Kalakaua Intermediate School, Oahu Design and construction for the installation of heavy gauge security screens over wooden louvers, glass jalousies, transoms and roll-up windows for buildings E, G, J, R and portables.	25,000
17.	Kalihi Elementary School, Oahu Design and construction to improve existing facilities and install metal railings on the third floor of buildings A and B.	50,000
18.	Kalihi-Kai Elementary School Library, Oahu Design and planning of renovations.	24,175
19.	Kamiloiki Elementary School, Oahu Design and construction for the installation of collapsible accordion doors to partition cafeteria.	10,000
20.	Kawanakoa Intermediate School, Oahu Replace louvers in buildings D, E, G, and F.	25,000
21.	Keolu Elementary School, Oahu Design and construction for the improvement of the fence on the school boundary.	10,000
22.	Kuhio Elementary School, Oahu General maintenance and repairs.	16,350
23.	Kuhio Elementary School, Oahu Design and construction of classroom partitions.	33,000
24.	Liholiho Elementary School, Oahu Construction of cafeteria.	90,000
25.	Liholiho Elementary School Cafeteria, Oahu Design and construction to replace windows and jalousies.	10,000
26.	Liliuokalani Elementary School, Oahu Construction of improvements.	50,000
27.	Linapuni Elementary School, Oahu Construction of covered walkway between buildings A and B.	15,000
28.	Lunalilo Elementary School, Oahu General maintenance and repairs.	19,000
29.	Mauka Lani Elementary School, Oahu Construction of a sidewalk and other general improvements.	5,000
30.	McKinley High School, Oahu Design and construction for the renovation of classroom buildings.	200,000

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31. McKinley High School, Oahu Design and construction for the renovation of classroom buildings.	200,000
32. Mililani High School Administration Building, Oahu Plans and design.	25,000
33. Mililani Waena Elementary School Dining Room Plans and design.	65,000
34. Moanalua High School, Oahu Construction of administration building.	310,000
35. Nuuanu Elementary School, Oahu Design and construction of storage facility.	75,000
36. Pacific Palisades Elementary School, Oahu Purchase and installation of security screens for buildings A and B.	10,000
37. Pearl City High School, Oahu Construction of varsity shower and 5000-seat concrete bleachers including ticket booth, movie platform, toilets, lights, sprinkler system, fencing, ground and site improvements.	50,000
38. Pearl City High School, Oahu Design and construction of athletic complex.	190,000
39. Radford High School, Oahu Design and construction for replacement of football field lights.	350,000
40. Radford High School, Oahu Design and construction for installation of ceiling fans in the cafeteria and key classrooms.	15,000
41. Roosevelt High School, Oahu Plans, design and construction for the renovation of building A.	200,000
42. Roosevelt High School, Oahu Plans, design, construction and equipment for the renovation and improvement of building A.	409,125
43. Roosevelt High School, Oahu Plans, design, construction and equipment for the renovation and improvement of building A.	100,000
44. Waialae Elementary School, Oahu Design and construction of a chain link fence.	15,000
45. Waianae High School, Oahu Baseball field.	200,000
46. Waianae High School, Oahu Canvas shade for bleachers at swimming pool.	4,000
47. Waianae High School, Oahu Hot water showers for swimming pool.	10,000
48. Waianae High School, Oahu Windbreak for swimming pool.	7,000
49. Waiau Elementary School, Oahu Design and construction of a multi-purpose classroom and dining facility.	100,000
50. Waimalu Elementary School, Oahu Design of a new administration building.	45,000
51. Waimalu Elementary School, Oahu Renovation and expansion of library.	15,000
52. Waimanalo Elementary and Intermediate School, Oahu Design and construct security lights.	40,000

53. Washington Intermediate School, Oahu General maintenance and improvements.	19,000
54. Washington Intermediate School, Oahu Lighting of athletic field.	3,000
55. Washington Intermediate School, Oahu Painting of school.	68,000
56. Wilson Elementary School, Oahu Lighting for school parking lot.	5,000
57. Wilson Elementary School, Oahu Stairs from portables 1, 2, 3, and 4 to upper level of Honolulu district office.	5,000
58. Department of Education Planning and construction for all schools in the 16th District as follows: Kaewai Elementary; Kalihi Elementary; Kalihi Uka School; Kalihi Waena School; Kapalama School; Lanakila School; Likelike School; Sanford B. Dole Intermediate; and Farrington High School.	50,000

**F. UNIVERSITY OF HAWAII**

1. Windward Community College Master Plan Preparation of a master plan including an environmental impact study for the Windward Community College.	100,000
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**G. DEPARTMENT OF DEFENSE**

1. National Guard USPFO Building Design and construction of a concrete pad and necessary building renovation to accommodate a company van.	45,000
2. Wahiawa National Guard Armory Parking Lot Design and construction.	90,000

**H. DEPARTMENT OF HEALTH**

1. Nanakuli Family Planning Clinic, Oahu Design and construction.	8,000
2. Leahi Hospital — Young Building Design and construction.	140,000
3. Leahi Hospital — Trotter Wing Renovation Design and construction.	66,000
4. Kapiolani Children's Medical Center, Oahu Grant-in-Aid — equipment.	100,000
5. Kahuku Hospital Grant-in-aid expansion of first floor of the Campbell wing.	140,000

**K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

1. Public Housing Planning, design, and construction for all public housing in the 16th District as follows: Kamehameha Homes; Kalihi Valley Homes; Kuhio Homes; Kuhio Park Terrace; Kaahumanu Housing; Puahala Homes.	26,500
2. Youth Facility Plan and design for a youth facility in the 24th Representative District.	30,000

**M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

1. Waimanalo Community Services Center	75,000
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## ACT 263

Design and construction.

### U. CITY AND COUNTY OF HONOLULU

(To be expended by the City and County of Honolulu)

1. Aiea Recreation Center, Oahu Grant-in-aid to City and County of Honolulu for installation of acoustic ceiling.	9,175
2. Booth District Park Multi-Purpose Building, Oahu Purchase and installation of ceramics kiln.	5,000
3. Dole Street Improvements, Oahu Planning and design for the upgrading of the drainage system between the H-1 freeway Wilder Avenue exit on the Dole/Wilder Avenue intersection.	10,000
4. Dole Street Improvements, Oahu Planning and design for curbs, sidewalks, improved drainage and resurfacing of Dole Street between McCully and Punahou Streets.	10,000
5. Haleiwa Community Gym Repairs and renovations.	180,000
6. Hamakua Drive, Kailua, Oahu Design and construction.	600,000
7. Hoaae Street Walkway, Waipahu Plans and construction.	15,000
8. Kailua High School to Kalaniana'ole Highway Planning, design, and construction of access road from Kailua High School to Kalaniana'ole Highway, Kailua, Oahu, Hawaii.	75,000
9. Kaneohe Development Plan Development of a master plan for the town of Kaneohe.	15,000
10. Kanewai Field, Oahu Design and construction for the upgrading of the field. The sum appropriated shall be matched by the City and County of Honolulu.	50,000
11. Kapalono Park Equipment for tiny tots playground.	5,000
12. Koko Head Park, Oahu Design and construction for improvement to make the walkway more accessible to elderly and handicapped persons.	200,000
13. Kuikini Community Garden or Extension Planning, design, and construction for improvements to turn unused portion of Kuikini Extension into a community garden or to improve roadway.	30,000
14. Laimi Bicycle and Foot Bridge Planning, design, and construction of bicycle and foot bridge across Nuuanu Stream adjacent to Laimi Road Bridge.	25,000
15. Makiki District Park, Oahu Construction of site improvements including building renovation for arts and crafts building, AGEE Hall, administration building, volleyball and basketball courts, and general grounds improvements and landscaping. This supplements previous appropriations.	50,000
16. Manoa Recreation Center Design and construction for enlargement of parking lot and repairing gymnasium. This supplements previous appropriations.	50,000
17. Maunalani Park, Oahu Design and construction for the upgrading of the park. The sum appropriated shall be matched by the City and County of Honolulu.	50,000

18. Moanalua Road, Oahu	125,000
Grant-in-aid to City and County of Honolulu for land acquisition and improvements.	
19. Numana Road, Kalihi	30,000
Planning, engineering, constructing a road and acquisition of land relating thereto.	
20. Ola Lane Improvement	30,000
Planning, design, and improvement of Ola Lane overpass.	
21. Pacheco Park	50,000
Purchase and installation of fencing and bleachers.	
22. Palolo Valley Field, Oahu	200,000
Design and construction for the placing of retaining walls and dirt fill on the perimeter to level the area with the existing field so as to enlarge for maximum use of the field. The sum appropriated shall be matched by the City and County of Honolulu.	
23. Papakolea Gym, Oahu	45,000
Repair and renovation of gym roof.	
24. Pukele Drainage Canal, Oahu	200,000
Design and construction for the improvement of the canal. The sum appropriated shall be matched by the City and County of Honolulu.	
25. Puunui Park	88,000
Renovate park building including painting and repairing windows, doors, and restrooms.	
26 Salt Lake District Park, Oahu	100,000
Site improvements and outdoor courts.	
27. Senior Citizen Center	137,000
Design and construction.	
28. Wahiawa Roadway, Oahu	50,000
Resurfacing of Valley Avenue, Crest Avenue, Ridge Avenue and Auwai Drive, Wahiawa, Oahu.	
29. Wahiawa Civic Center Additional Increment, Wahiawa, Oahu	50,000
Plans and design.	
30. Waianae Valley Road Improvements, Waianae, Oahu	24,000
Detail designs, construction plans, and construction.	
31. Waimano Home Road Foot Path	10,000
Design and construction of new footpath along Waimano Home Road-Komo Mai Drive to Hookiekie Street on Honolulu side of Waimano Home Road to entrance of Pearl City High School.	
32. Waipahu Civic Center	95,000
Appraisal for land acquisition.	
33. Waipahu Cultural Garden Park Improvements	100,000
Plans, design, and construction.	
34. War Memorial Park, Waikiki, Oahu	500,000
Planning, design and renovation of Waikiki War Memorial Park including demolition of Natatorium structure, preservation of historic and memorial objects, landscaping, and beach improvement.	

**VW. CITY AND COUNTY OF HONOLULU**  
**(To be expended by the Board of Water Supply)**

1. Water Resources Development	2,500,000
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**ACT 263**

Plans, land acquisition, design, construction and equipment for water resource development for the City and County of Honolulu.

**IV. COUNTY OF KAUAI**

**C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

- 1. Waimea Irrigation System, Menehune Ditch, Waimea, Kauai 205,969  
Plans and construction for improvements to the Waimea Irrigation System, Menehune Ditch, Waimea, Kauai.
- 2. Improvements of Waikaea Canal, Kapaa, Kauai 114,427  
Design and construction of improvements to the Waikaea Canal, Kapaa, Kauai including revetments, paving of driveway, maneuvering area, and parking lot, and other related improvements.

**H. DEPARTMENT OF HEALTH**

- 1. Kauai Veterans Memorial Hospital 133,650  
Integration of electrical systems. To connect existing independent systems on each building to one master system for hospital complex to include emergency electrical sources.

**X. COUNTY OF KAUAI**

- 1. Senior Citizens Center, Kauai 295,954  
Plans and construction of a regional center in Lihue, Kauai and the purchase of furniture and equipment.

**XW. COUNTY OF KAUAI**

(To be expended by the Board of Water Supply)

- 1. Water Resources Development 1,000,000  
Plans, land acquisition, design, construction and equipment for water resource development for the county of Kauai.

**V. STATEWIDE, HAWAII**

**A. DEPARTMENT OF AGRICULTURE**

(To be expended by the Department of Agriculture)

- 1. Holding and Distribution Facility on the Mainland for Agricultural and Other Commodities. 500,000  
Planning, design, construction, renovation, lease or lease to purchase holding and distribution facility on the mainland for agricultural and other commodities.

**SECTION 3.** Any law to the contrary notwithstanding, the appropriations in the following acts and items therein in the amounts indicated or balances thereof are hereby lapsed:

A. Act 214, Session Laws of Hawaii 1979, as amended:

Item No.	Capital Project No.	Amount
(1) H-35	LH0101	\$ 50,000
(2) K-97	LH0254	50,000
(3) K-99	LH0256	25,000
(4) C-94	LH0301	75,000
(5) K-93	LH0250	100,000



(6)	K-96	LH0253	50,000
(7)	G-6	LH0301	40,000
(8)	E-4	LH0301	25,000
(9)	K-102	LH0303	20,000
(10)	G-11	LH0553	50,000
(11)	—	—	—
(12)	H-36	LH0601	5,000
(13)	H-39	LH0651	10,000
(14)	G-20	LH0653	20,000
(15)	G-15	LH0604	4,000
(16)	G-28	LH0661	4,000
(17)	G-27	LH0660	10,000
(18)	G-14	LH0603	10,000
(19)	G-22	LH0655	15,000
(20)	G-12	LH0601	30,000
(21)	G-23	LH0656	12,000
(22)	G-16	LH0605	10,000
(23)	F-40	LH0601	14,000
(24)	G-24	LH0657	12,000
(25)	G-18	LH0651	14,000
(26)	G-9	LH0551	27,000
(27)	G-10	LH0552	1,000
(28)	F-41	LH0602	6,000
(29)	G-19	LH0652	6,000
(30)	G-13	LH0602	25,000
(31)	G-17	LH0650	25,000
(32)	G-21	LH0654	15,000
(33)	C-64	LH02101	5,000
(34)	G-32	LH0750	200,000
(35)	G-31	LH0703	3,000
(36)	G-30	LH0702	31,000
(37)	G-33	LH0751	65,000
(38)	G-29	LH0701	180,000
(39)	G-34	LH0752	25,000
(40)	G-35	LH0753	10,000
(41)	G-94	LH01903	20,000
(42)	K-24	LH0701	86,000
(43)	G-39	LH0804	74,000
(44)	G-38	LH0803	25,000
(45)	G-37	LH0802	125,000
(46)	K-25	LH0801	125,000
(47)	K-26	LH0802	1,000
(48)	G-40	LH0901	80,000
(49)	G-42	LH0903	65,000
(50)	G-41	LH0902	85,000
(51)	K-27	LH0901	50,000
(52)	K-29	LH0903	50,000

(53)	K-28	LH0902	80,000
(54)	K-30	LH0904	50,000
(55)	K-31	LH0905	90,000
(56)	G-76	LH1653	10,000
(57)	G-43	LH1001	150,000
(58)	G-45	LH1003	6,000
(59)	G-47	LH1005	20,000
(60)	G-46	LH1004	50,000
(61)	G-48	LH1006	25,000
(62)	G-280	LH1201	4,000
(63)	E-19	LH1301	50,000
(64)	K-36	LH1202	148,000
(65)	K-35	LH1201	150,000
(66)	G-52	LH1304	65,000
(67)	G-58	LH1310	10,000
(68)	G-63	LH1504	10,000
(69)	G-53	LH1305	30,000
(70)	G-49	LH1301	30,000
(71)	G-54	LH1306	30,000
(72)	G-56	LH1308	40,000
(73)	G-55	LH1307	25,000
(74)	G-50	LH1302	75,000
(75)	G-281	LH1301	5,000
(76)	G-292	LH1301	50,000
(77)	G-306	LH1201	100,000
(78)	K-37	LH1301	20,000
(79)	K-38	LH1302	5,000
(80)	K-39	LH1303	70,000
(81)	K-40	LH1304	15,000
(82)	H-26	LH1401	600,000
(83)	G-61	LH1502	10,000
(84)	G-60	LH1501	40,000
(85)	G-62	LH1503	10,000
(86)	G-51	LH1303	9,000
(87)	G-59	LH1311	60,000
(88)	E-20	LH1701	1,000
(89)	K-43	LH1503	25,000
(90)	K-41	LH1501	130,000
(91)	C-53	LH1601	30,000
(92)	C-58	LH1653	25,000
(93)	C-55	LH1650	60,000
(94)	C-54	LH1602	10,000
(95)	C-57	LH1652	10,000
(96)	C-56	LH1651	10,000
(97)	G-68	LH1605	10,000
(98)	G-67	LH1604	30,000
(99)	G-75	LH1652	25,000

(100)	G-69	LH1606	10,000
(101)	G-70	LH1607	10,000
(102)	G-76	LH1653	10,000
(103)	G-71	LH1608	10,000
(104)	G-72	LH1609	10,000
(105)	K-47	LH1602	50,000
(106)	K-49	LH1651	25,000
(107)	K-46	LH1601	25,000
(108)	K-48	LH1650	28,000
(109)	K-50	LH1652	40,000
(110)	G-66	LH1603	10,000
(111)	G-74	LH1651	15,000
(112)	G-65	LH1602	30,000
(113)	G-87	LH1711	5,000
(114)	G-88	LH1712	5,000
(115)	G-64	LH1601	25,000
(116)	G-73	LH1650	5,000
(117)	G-79	LH1703	20,000
(118)	G-89	LH1713	10,000
(119)	G-85	LH1709	1,000
(120)	G-84	LH1708	20,000
(121)	G-86	LH1710	20,000
(122)	G-77	LH1701	1,000
(123)	G-78	LH1702	1,000
(124)	G-83	LH1707	50,000
(125)	G-91	LH1715	1,000
(126)	K-51	LH1701	1,000
(127)	C-59	LH1801	250,000
(128)	K-55	LH1852	50,000
(129)	K-52	LH1801	50,000
(130)	K-54	LH1851	50,000
(131)	G-93	LH1902	75,000
(132)	G-100	LH1909	55,000
(133)	G-96	LH1905	50,000
(134)	G-101	LH1910	30,000
(135)	G-98	LH1907	100,000
(136)	G-92	LH1901	50,000
(137)	G-99	LH1908	100,000
(138)	G-95	LH1904	50,000
(139)	C-63	LH2004	70,000
(140)	C-62	LH2003	20,000
(141)	G-80	LH1704	1,000
(142)	G-104	LH2003	29,000
(143)	G-102	LH2001	1,000
(144)	G-105	LH2004	50,000
(145)	K-57	LH2001	50,000
(146)	G-109	LH2104	20,000

(147)	G-112	LH2152	25,000
(148)	G-113	LH2153	10,000
(149)	G-108	LH2103	79,000
(150)	G-107	LH2102	5,000
(151)	G-106	LH2101	15,000
(152)	G-111	LH2151	10,000
(153)	G-115	LH2155	25,000
(154)	G-110	LH2150	50,000
(155)	G-116	LH2156	20,000
(156)	G-114	LH2154	25,000
(157)	K-58	LH2101	10,000
(158)	K-59	LH2102	30,000
(159)	K-60	LH2103	15,000
(160)	K-61	LH2104	20,000
(161)	K-64	LH2150	18,000
(162)	C-69	LH2252	100,000
(163)	C-68	LH2251	30,000
(164)	C-67	LH2250	50,000
(165)	G-103	LH2002	29,000
(166)	G-117	LH2201	7,000
(167)	G-122	LH2251	50,000
(168)	G-121	LH2250	28,000
(169)	G-120	LH2205	10,000
(170)	G-119	LH2204	20,000
(171)	G-118	LH2203	167,000
(172)	C-70	LH2301	50,000
(173)	C-71	LH2302	75,000
(174)	C-76	LH2450	42,000
(175)	C-74	LH2403	10,000
(176)	C-73	LH2402	30,000
(177)	C-72	LH2401	8,000
(178)	C-75	LH2404	6,000
(179)	G-283	LH2401	25,000
(180)	G-126	LH2401	150,000
(181)	G-127	LH2401	35,000
(182)	G-132	LH2451	70,000
(183)	G-137	LH2456	5,000
(184)	G-138	LH2457	15,000
(185)	G-136	LH2455	5,000
(186)	G-147	LH2601	50,000
(187)	G-141	LH2502	100,000
(188)	G-134	LH2453	20,000
(189)	G-128	LH2403	10,000
(190)	G-130	LH2405	5,000
(191)	G-144	LH2505	50,000
(192)	G-140	LH2501	100,000
(193)	G-146	LH2507	20,000

(194)	G-145	LH2506	10,000
(195)	G-142	LH2503	40,000
(196)	K-66	LH2450	5,000
(197)	A-28	LH2601	20,000
(198)	A-29	LH2602	8,000
(199)	C-77	LH2601	5,000
(200)	G-148	LH2602	10,000
(201)	G-151	LH2605	10,000
(202)	G-152	LH2606	70,000
(203)	G-150	LH2604	10,000
(204)	K-69	LH2602	7,000
(205)	K-68	LH2601	5,000
(206)	H-42	LH2702	40,000
(207)	H-43	LH2703	35,000
(208)	C-111	LH2701	35,000
(209)	K-139	LH2706	100,000
(210)	K-134	LH2701	1,000
(211)	K-15	50L	5,000,000
(212)	G-296	146	2,000,000
(213)	H-16	LS0201	70,000
(214)	K-104D	LH0640	10,000
(215)	A-1A	LH0751	20,000
(216)	G-279F	LH0551	15,000
(217)	K-92A	LH0238	100,000
(218)	G-5M	LH0218	100,000
(219)	G-6A	LH0303	16,000
(220)	H-4J	LH0144	50,000
(221)	G-7A	LH0408	250,000
(222)	G-7F	LH0508	150,000
(223)	K-23R	LH0308	50,000
(224)	K-23D	LH0108	25,000
(225)	K-23M	LH0208	25,000
(226)	C-51G	LH0126	80,000
(227)	H-25D	LH0237	25,000
(228)	K-23J	LH0137	50,000
(229)	K-23I	LH0132	200,000
(230)	K-23S	LH0326	115,000
(231)	C-51V	LH0526	10,000
(232)	K-23G	LH0119	150,000
(233)	G-6E	LH0348	48,000
(234)	G-5L	LH0212	20,000
(235)	F-14E	LH0248	100,000
(236)	K-23X	LH0512	5,000
(237)	K-23E	LH0112	20,000
(238)	H-25J	LH0634	20,000
(239)	C-51Q	LH0314	125,000
(240)	G-7H	LH0534	100,000

(241)	G-7C	LH0434	50,000
(242)	K-23F	LH0114	50,000
(243)	G-279A	LH0527	48,000
(244)	G-16A	LH0627	48,000
(245)	G-31A	LH0727	36,000
(246)	F-14D	LH0227	50,000
(247)	K-23K	LH0146	250,000
(248)	G-5H	LH0130	250,000
(249)	H-55A	LH0235	25,000
(250)	G-7D	LH0435	10,000
(251)	G-16B	LH0635	7,000
(252)	K-23A	LH0101	100,000
(253)	G-5N	LH0228	53,500
(254)	C-51K	LH0216	50,000
(255)	C-51F	LH0116	100,000
(256)	C-51J	LH0209	25,000
(257)	G-6D	LH0345	150,000
(258)	E-18A	LH0445	210,000
(259)	C-51I	LH0202	200,000
(260)	H-25A	LH0136	100,000
(261)	H-25B	LH0200	50,000
(262)	E-18B	LH0700	100,000
(263)	K-230	LH0226	145,000

The source of funding for all appropriations in this section is the general obligation bond fund.

SECTION 4. The authorizations in section 2 of this Act include land purchase, plans, design, site preparation, improvements to land, construction, and necessary equipment.

SECTION 5. The authorizations in Part VIA of Act 1, Sp SLH 1981, include land purchase, plans, site preparation, improvements to land, construction, and necessary equipment.

SECTION 6. For any project jointly funded by state and county moneys, state funds shall be used only when the county provides at least its share.

SECTION 7. Where an agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the Governor, or agency with the Governor's approval, shall have the power to enter into each undertaking.

SECTION 8. In the event that the State should assume the direct operation of any nongovernmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such nongovernmental agency. The credit shall be applicable regardless of when such acquisition takes place.

SECTION 9. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year

1982-1983 which are unencumbered as of June 30, 1984 shall lapse as of that date, and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential.

**SECTION 10.** If general obligation bond proceeds have been allocated to an authorization which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such authorization, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other authorizations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

**SECTION 11.** The designated expending agency for capital investments authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first Regular Session of the Legislature convened after such delegations have been made.

**SECTION 12.** Where county capital improvement projects are partially or totally funded by state funds as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

**SECTION 13.** The negotiation for the purchase of land by state agencies shall be subject to the approval of the Governor. Private lands may be acquired for the purpose of exchange for federal lands when the Governor determines that such acquisition and exchange are necessary for the completion of any herein authorized projects.

**SECTION 14.** Any law or any provision to the contrary notwithstanding, the Governor may supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds authorized for later-phased cost elements (land or construction) for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total authorization for that project.

**SECTION 15.** Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the Governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the authorization for a project is insufficient.

**SECTION 16.** In releasing funds for projects, the Governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope

and level of the user agency's intended services; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 17. No authorization in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any authorization in this Act falls within the provision of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement authorizations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under section 2 of this Act shall be correspondingly decreased.

SECTION 18. In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the Governor for any other capital improvement project authorized by the legislature in this Act.

SECTION 19. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific authorization is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such authorization to the extent possible.

SECTION 20. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 21. This Act shall take effect upon its approval.

(Approved June 17, 1982.)



ACT 264

H.B. NO. 2070-82

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1981 to June 30, 1983.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1982.

SECTION 2. This Act amends Act 1, First Special Session Laws of Hawaii, 1981.

SECTION 3. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in Section 3 of Act 1, First Special Session Laws of Hawaii, 1981 for the following programs are amended to read:

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M FY 0 1981-82 F	M FY 0 1982-83 F	Total Biennium 1981-83
<b>A. ECONOMIC DEVELOPMENT</b>						
1.	COMMERCE AND INDUSTRY Operating	PED 102	PED	16.00* 3,224,690A 900,000W	16.00* 3,293,657A 1,000,000W	6,518,347A 1,900,000W
2.	TRADE AND FINANCE International Trade & Economic Cooperation Operating	PED 105	PED PED	6.00* 222,989A	6.00* 228,435A	451,424A
3.	Foreign Trade Zone Services Operating Investment: Capital	PED 107	PED PED PED	26.00* 1,007,986B D	26.00* 1,024,237B 1,370,000D	2,032,223B 1,370,000D
4.	TOURISM Operating Investment: Capital	PED 113	PED PED PED PED PED	3.00* 3,730,646A 1,042,000R 205,000X 6,084,000C	3.00* 3,612,158A 1,309,000R 220,000X C	7,342,804A 2,351,000R 425,000X 6,084,000C
<b>AGRICULTURE</b>						
5.	Economic Assistance For Agriculture Financial Assistance For Agriculture Operating	AGR 101	AGR AGR AGR	13.00* 446,229B 1,500,000W	13.00* 446,666B 2,010,000W	892,895B 3,510,000W
6.	Price & Production Controls For Dairy Prdts Operating	AGR 103	AGR AGR	8.00* 175,411A	8.00* 175,991A	351,402A

Productivity Imprvmtnt & Mgt. Asstnce For Agr						
Plant Pest and Disease Control						
7.	Plant Quarantine Operating	AGR 121	42.15* 841,175A 522,068U	42.15* 844,326A 535,299U	1,685,501A 1,057,367U	
8.	Plant Pest Control Operating	AGR 122	26.35* 728,558A	26.35* 824,454A	1,553,012A	
9.	Animal Pest and Disease Control Animal Quarantine Operating	AGR 131	38.00* 975,726A 64,131U	38.00* 986,770A 64,131U	1,962,496A 128,262U	
10.	Animal Disease Control Operating	AGR 132	22.50* 703,248A 33,193T	22.50* 693,988A 33,911T	1,397,236A 67,104T	
11.	Product Development and Marketing For Agr Forestry—Products Development Operating	LNR 172	30.00* 874,341A 102,700N C	30.00* 843,670A 102,700N 50,000C	1,718,011A 205,400N 50,000C	
	Investment: Capital					
12.	Distribution Systems Improvement For Agr Operating	AGR 151	35.00* 754,406A 126,330B 22,970N R	35.00* 1,068,420A 127,350B 22,970N 200,000R	1,822,826A 253,680B 45,940N 200,000R	

Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total Biennium 1981-83
				FY 0 1981-82 F	M FY 0 1982-83 F	M	
13.	General Support For Agr Data Collection For Agr Operating	AGR 189	AGR	12.00*	12.00*		612,628A
			AGR	308,844A	303,784A		
14.	General Administration For Agr Operating	AGR 192	AGR	31.00*	31.00*		1,864,407A 7,618,000C
			AGR	826,351A	1,038,056A		
			AGR	3,237,000C	4,381,000C		
15.	FISHERIES & AQUACULTURE Financial Assistance For Aquaculture Operating	AGR 102	AGR	200,000W	25,000W		225,000W
16.	Commercial Fishery and Aquaculture Operating	LNR 153	LNR	17.00*	17.00*		3,469,237A 1,549,750N 90,000C
			LNR	1,588,069A	1,881,168A		
			LNR	830,750N	719,000N		
			LNR	40,000C	50,000C		
17.	ENERGY DEVELOPMENT AND MANAGEMENT Operating	PED 120	PED	9.00*	9.00*		1,004,946A 533,330B 1,744,130N 3,875,000C 1,514,000N
			PED	473,512A	531,434A		
			PED	255,950B	277,380B		
			PED	858,852N	885,278N		
			PED	1,490,000C	2,385,000C		
			PED	289,000N	1,225,000N		
18.	WATER DEVELOPMENT & IRRIGATION SERVICES Operating	LNR 141	LNR	19.00*	19.00*		905,910A
			LNR	602,139A	303,771A		

	Investment: Capital						
	<b>ECON PLANNING &amp; COORD FOR ECON DEVELOPMENT</b>						
19.	Econ Planning & Research For Econ Devpmt Operating	PED 130	LNR LNR	137,000B 3,425,000C	439,993B 3,945,000C	576,993B 7,370,000C	
			PED PED	13.00* 372,166A	13.00* 395,401A	767,567A	
20.	General Support For Marine Programs Operating	PED 109	PED PED	4.00* 562,842A	4.00* 759,109A	1,321,951A	
21.	General Support For Economic Development Operating	PED 142	PED PED	22.00* 677,510A	23.00* 715,372A	1,392,882A	
	<b>B. EMPLOYMENT</b>						
	<b>FULL OPPORTUNITY TO WORK</b>						
1.	Placement Services Operating	LBR 111	LBR LBR LBR LBR	3.00* 58,547A 200.00* 7,269,342N	3.00* 108,333A 200.00* 7,385,311N	166,880A 14,654,653N	
2.	Apprenticeship & Other Training Programs Operating	LBR 123	LBR LBR	7.00* 148,954A	7.00* 153,511A	302,465A	
3.	Employment and Training Programs Operating	LBR 131	LBR LBR LBR	136,977A 15.00* 11,284,657N	136,977A 15.00* 11,284,657N	273,954A 22,569,314N	
4.	Commission On Manpower and Full Employment Operating	LBR 135	LBR LBR LBR	6.00* 120,907A 122,038N	6.00* 119,417A 114,815N	240,324A 236,853N	

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
5.	Occupational Safety & Health Operating	LBR 143	LBR	50.50*	50.50*	2,207,109A
			LBR	1,096,006A	1,111,103A	
			LBR	29.50*	29.50*	
			LBR	813,875N	825,109N	
6.	FAIR AND JUST EMPLOYMENT PRACTICES Wage Standards & Fair Employment Practices Operating	LBR 152	LBR	29.00*	29.00*	1,235,506A
			LBR	588,930A	646,576A	
			LBR	40,000N	40,000N	
					80,000N	
7.	LABOR-MANAGEMENT RELATIONS Public Employment Operating	LBR 161	LBR	3.00*	3.00*	814,705A
			LBR	401,381A	413,324A	
8.	Private Employment Operating	LBR 162	LBR	1.50*	1.50*	97,178A
			LBR	48,369A	48,809A	
9.	ASSISTANCE IN WORK RELATED DIFFICULTIES Unemployment Compensation Operating	LBR 171	LBR	2,724,794A	2,900,000A	5,624,794A
			LBR	100,306,800B	100,306,800B	
			LBR	270.85*	270.85*	
			LBR	6,121,533N	6,252,502N	
10.	Disability Compensation Operating	LBR 183	LBR	86.00*	86.00*	3,385,035A
			LBR	1,683,497A	1,701,538A	
			LBR	6,529,000B	7,329,000B	
					12,374,035N	13,858,000B

11.	Vocational Rehabilitation Operating	SOC 802	SOC	33.70*	33.70*	3,597,355A
			SOC	1,806,044A	1,806,044A	750,000B
			SOC	350,000B	400,000B	
			SOC	93.30*	93.30*	
			SOC	3,656,539N	3,628,937N	7,285,476N
12.	OVERALL PROGRAM SUPPORT DLIR-Data Gathering, Research and Analysis Operating	LBR 901	LBR	8.40*	8.40*	1,793,610A
			LBR	539,903A	1,253,707A	
			LBR	30.60*	27.10*	
			LBR	1,021,293N	910,736N	1,932,029N
13.	General Administration Operating	LBR 902	LBR	23.20*	23.20*	928,282A
			LBR	459,467A	468,815A	
			LBR	38.30*	38.30*	
			LBR	1,444,545N	1,470,931N	2,915,476N
14.	Labor & Industrial Relations Appeals Board Operating	LBR 812	LBR	8.00*	8.00*	551,667A
			LBR	272,731A	278,936A	
<b>C. TRANSPORTATION FACILITIES</b>						
AIR TRANSPORTATION FACILITIES AND SVCS						
1.	HIA Facilities & SVCS Operating Investment: Capital	TRN 102	TRN	443.00*	443.00*	51,545,515B
			TRN	25,476,550B	26,068,965B	20,500,000B
			TRN	10,500,000B	10,000,000B	36,850,000E
			TRN	21,540,000E	15,310,000E	200,000N
			TRN	200,000N		
2.	General Aviation Facilities and Services Operating	TRN 104	TRN	1.00*	1.00*	153,789B
			TRN	74,662B	79,127B	

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
	Investment: Capital		TRN	E	4,000,000E	4,000,000E
			TRN	N	1,500,000N	1,500,000N
3.	General Lyman Field Facilities & Services Operating	TRN 111	TRN	76.00*	76.00*	
			TRN	3,591,999B	3,541,316B	7,133,315B
	Investment: Capital		TRN	60,000E	600,000E	660,000E
4.	Ke-ahole Airport Facilities and Services Operating	TRN 114	TRN	52.00*	52.00*	
			TRN	2,095,550B	1,943,681B	4,039,231B
	Investment: Capital		TRN	3,690,000E	1,500,000E	5,190,000E
5.	Waimea-Kohala Airport Facilities & Services Operating	TRN 116	TRN	4.00*	4.00*	
			TRN	536,887B	336,608B	873,495B
6.	Upolu Airport Facilities & Services Operating	TRN 118	TRN	42,276B	17,469B	59,745B
7.	Kahului Airport Facilities and Services Operating	TRN 131	TRN	69.00*	69.00*	
			TRN	2,576,940B	2,375,417B	4,952,357B
	Investment: Capital		TRN	1,711,000E	4,500,000E	6,211,000E
8.	Hana Airport Facilities and Services Operating	TRN 133	TRN	1.00*	1.00*	
			TRN	100,660B	34,589B	135,249B
9.	Molokai Airport Facilities and Services Operating	TRN 141	TRN	7.00*	7.00*	
			TRN	1,129,861B	400,837B	1,530,698B



10.	Kalaupapa Airport Facilities and Services Operating	TRN 143	TRN	1.00*	1.00*	100,660B
			TRN	76,819B	23,841B	
11.	Lanai Airport Facilities and Services Operating	TRN 151	TRN	4.00*	4.00*	492,252B
			TRN	348,961B	143,291B	
12.	Lihue Airport Facilities and Services Operating Investment: Capital	TRN 161	TRN	57.00*	57.00*	3,860,759B
			TRN	1,977,111B	1,883,648B	19,250,000E
			TRN	9,250,000E	10,000,000E	2,400,000N
			TRN	2,400,000N	N	
13.	Port Allen Airport Facilities and Services Operating	TRN 163	TRN	810B	810B	1,620B
14.	Air Transportation Facilities & Svcs Support Operating Investment: Capital	TRN 195	TRN	61.00*	61.00*	98,941,725B
			TRN	44,849,836B	54,091,889B	6,800,000B
			TRN	500,000B	6,300,000B	2,300,000E
			TRN	500,000E	1,800,000E	200,000N
			TRN	N	200,000N	
15.	WATER TRANSPORTATION FACILITIES AND SERVICES Honolulu Harbor Facilities and Services Operating Investment: Capital	TRN 301	TRN	130.00*	130.00*	11,155,906B
			TRN	5,438,389B	5,717,517B	2,301,000B
			TRN	1,113,000B	1,188,000B	2,650,000C
			TRN	2,650,000C	C	9,755,000E
			TRN	5,755,000E	4,000,000E	
16.	Barbers Point Harbor Facilities and Services Investment: Capital	TRN 303	TRN	1,200,000E	4,440,000E	5,640,000E
			TRN	74,100,000N	N	74,100,000N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
17.	Kewalo Basin Facilities and Services Operating	TRN 305	TRN	2.00*	2.00*	495,769B 400,000C
				245,144B	250,625B	
				C	400,000C	
18.	Hilo Harbor Facilities and Services Operating	TRN 311	TRN	10.00*	10.00*	1,187,276B 385,000B
				573,975B	613,301B	
				B	B	
19.	Kawaihae Harbor Facilities and Services Operating	TRN 313	TRN	5.00*	5.00*	401,402B 213,000B
				201,013B	200,389B	
				B	B	
20.	Kahului Harbor Facilities and Services Operating	TRN 331	TRN	12.00*	12.00*	1,033,493B 430,000B
				520,737B	512,756B	
				B	B	
21.	Kaunakakai Harbor Facilities and Services Operating	TRN 341	TRN	1.00*	1.00*	133,919B
				71,819B	62,100B	
22.	Nawiliwili Harbor Facilities and Services Operating	TRN 361	TRN	11.00*	11.00*	902,486B 1,355,000B
				445,808B	456,678B	
				B	B	
23.	Port Allen Harbor Facilities and Services Operating	TRN 363	TRN	1.00*	1.00*	138,517B
				67,222B	71,295B	

24.	Water Transportation Fac & Svcs Support Operating	TRN 395	TRN	49,00*	49,00*	22,304,659B
	Investment: Capital		TRN	10,891,967B	11,412, 692B	200,000B
			TRN	150,000B	50,000B	
25.	LAND TRANSPORTATION FACILITIES AND SERVICES Oahu Highways and Services	TRN 501	TRN	212,00*	212,00*	31,591,514B
	Operating		TRN	15,385,937B	16,205,577B	3,304,000B
	Investment: Capital		TRN	427,000B	2,877,000B	17,591,000D
			TRN	11,237,000D	6,354,000D	101,677,000J
			TRN	60,997,000J	40,680,000J	2,348,000K
			TRN	2,348,000K	K	1,150,000M
			TRN	1,150,000M	M	
26.	Hawaii Highways and Services	TRN 511	TRN	106,00*	106,00*	9,390,014B
	Operating		TRN	4,597,162B	4,792,852B	567,000B
	Investment: Capital		TRN	294,000B	273,000B	6,897,000D
			TRN	1,769,000D	5,128,000D	4,700,000K
			TRN	K	4,700,000K	4,670,000N
			TRN	2,656,000N	2,014,000N	
27.	Maui Highways and Services	TRN 531	TRN	53,00*	53,00*	5,261,680B
	Operating		TRN	2,510,456B	2,751,224B	770,000B
	Investment: Capital		TRN	385,000B	385,000B	2,264,000D
			TRN	1,864,000D	400,000D	3,383,000K
			TRN	3,383,000K	K	
28.	Molokai Highways and Services	TRN 541	TRN	12,00*	12,00*	1,775,332B
	Operating		TRN	886,090B	889,242B	275,000B
	Investment: Capital		TRN	25,000B	250,000B	

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M FY 0 1981-82 F	M FY 0 1982-83 F	Total Biennium 1981-83
29.	Lanai Highways and Services Operating	TRN 551	TRN	3.00* 151,603B 15,000B	3.00* 193,983B 150,000B	345,586B 165,000B
30.	Kauai Highways and Services Operating	TRN 561	TRN	41.00* 2,393,346B 160,000B	41.00* 2,490,269B 247,000B	4,883,615B 407,000B
	Investment: Capital		TRN	O 2,940,000O	2,940,000O	2,940,000O
			TRN	K 6,860,000K	6,860,000K	6,860,000K
31.	Land Transportation Fac & Svcs Support Operating	TRN 595	TRN	46.00* 20,913,522B	46.00* 22,557,355B	43,470,877B
	Investment: Capital		TRN	720,000B	816,000B	1,536,000B
			TRN	625,000D	625,000D	1,250,000D
			TRN	2,545,000N	2,647,000N	5,192,000N
32.	Safety Administration of Land Transportation Operating	TRN 597	TRN	17.50* 478,951B	17.50* 464,418B	943,369B
			TRN	6.50* 147,965N	6.50* 147,387N	295,352N
33.	OVERALL PROGRAM SUPPORT FOR TRANS FAC & SVCS Operating	TRN 995	TRN	82.00* 2,975,765B	82.00* 3,018,748B	5,994,513B
	D. ENVIRONMENTAL PROTECTION					
	POLLUTION CONTROL					
1.	Solids, Liquids, Gases, and Noise Operating	HTH 840	HTH	44.50* 44.50*	44.50* 44.50*	44.50* 44.50*

	Investment: Capital								
2.	Pesticides Operating	AGR 846	878,205A 11.00* 1,114,906N 3,920,000C	881,717A 11.00* 1,153,473N 2,519,000C					1,759,922A 2,268,379N 6,439,000C
			9.50* 174,229A	9.50* 180,559A					354,788A
<b>PRESERVATION AND ENHANCEMENT</b>									
3.	Aquatic Resources Operating	LNR 401	2.00* 18,699A 18,980N	2.00* 18,579A 19,265N					37,278A 38,245N
4.	Forest and Wildlife Resources Operating	LNR 402	48.00* 1,151,008A 344,850N	48.00* 1,152,023A 347,550N					2,303,031A 692,400N
5.	Mineral Resources Operating	LNR 403	2.00* 42,366A	2.00* 42,741A					85,107A
6.	Water Resources Operating	LNR404	12.00* 948,109A 229,250N 600,000C	12.00* 953,361A 229,250N C					1,901,470A 458,500N 600,000C
7.	Conservation & Resources Enforcement Operating	LNR 405	66.00* 1,602,471A 4,522N	68.00* 1,522,409A 4,918N					3,124,880A 9,440N
8.	Coastal Areas Operating	TRN 903	10,900A	11,775A					22,675A

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
9.	GENERAL SUPPORT FOR NAT PHYS ENVIRONMENT Policy Dvlpment, Coord & Anlys for Nat P Envr Operating	HTH 850	HTH HTH	11.00*	11.00*	510,360A
				249,808A	260,552A	
10.	LNR — Natural Physical Environment Operating	LNR 906	LNR LNR LNR	30.00*	30.00*	1,619,788A 42,039N
				802,673A	817,115A	
				20,832N	21,207N	
11.	HTH — Natural Physical Environment Operating	HTH 849	HTH HTH HTH HTH	8.00*	8.00*	987,688A 334,008N
				484,134A	503,554A	
				3.00*	3.00*	
				167,890N	166,118N	
<b>E. HEALTH</b>						
<b>PHYSICAL HEALTH</b>						
1.	Communicable Diseases Tuberculosis Operating	HTH 101	HTH HTH	44.00*	44.00*	2,155,003A
				1,051,218A	1,103,785A	
2.	Leprosy Operating  Investment: Capital	HTH 111	HTH HTH HTH HTH	78.00*	77.00*	5,591,803A 252,000B 300,000C
				2,754,216A	2,837,587A	
				126,000B	126,000B	
				200,000C	200,000C	

3.	Venereal Disease Operating	HTH 121	HTH HTH HTH HTH	10.00* 308,368A 4.00* 170,836N	10.00* 322,438A 4.00* 176,607N	630,806A 347,443N
4.	Other Communicable Diseases Operating	HTH 131	HTH HTH HTH HTH	10.00* 308,979A 2.00* 99,075N	9.00* 346,615A 1.00* 92,071N	655,594A 191,146N
5.	Supporting Services for Commun Diseases Operating	HTH 139	HTH HTH	5.00* 103,207A	5.00* 103,618A	206,825A
6.	Dental Diseases Operating	HTH 141	HTH HTH	46.20* 818,175A	46.20* 814,240A	1,632,415A
7.	Chronic Diseases Operating	HTH 151	HTH HTH	5.00* 570,247A	5.00* 1,005,824A	1,576,071A
8.	Nutrition Services Operating	HTH 160	HTH HTH HTH HTH	7.25* 131,566A 7.00* 2,917,614N	7.25* 134,534A 7.00* 793,604N	266,100A 3,711,218N
9.	Emergency Medical Services Operating	HTH 170	HTH HTH HTH	10.00* 10,451,843A 625,000N	6.00* 11,903,828A N	22,355,671A 625,000N
10.	Family Planning Operating	HTH 185	HTH HTH	2.00* 80,613A	2.00* 128,308A	208,921A

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 1981-82	FY 1982-83	
11.	School Health Services Operating	HTH 191	HTH	14,00*	5,00*	2,068,731N
			HTH	1,138,612N	930,119N	
12.	Health Care Services Operating	HTH 801	HTH	215,15*	215,80*	7,118,894A
			HTH	3,516,216A	3,602,678A	
13.	HOSPITAL CARE Hilo Hospital Operating	HTH 211	HTH	43,00*	43,00*	3,864,537A
			HTH	1,869,726A	1,994,811A	
			HTH	59,00*	56,00*	
			HTH	1,925,881N	1,887,049N	
			HTH	200,000C	200,000C	
14.	Honokaa Hospital Operating	HTH 212	HTH	1,061,170A	614,926A	1,676,096A
			HTH	537,20*	541,20*	
			HTH	12,725,000B	13,014,063B	
			HTH	125,000C	2,130,000C	
15.	Ka'u Hospital Operating	HTH 213	HTH	489,621A	499,739A	989,360A
			HTH	46,00*	46,00*	
			HTH	648,879B	678,101B	
16.	Kohala Hospital	HTH 214	HTH	449,546A	451,020A	900,566A
			HTH	32,00*	32,00*	
			HTH	329,930B	339,708B	
			HTH	250,000C	250,000C	



17.	Operating	HTH	516,822A	469,184A	986,006A
			HTH	36.50*	36.50*
			HTH	410,145B	415,965B
			HTH	107,000C	107,000C
Investment: Capital					
17.	Kona Hospital Operating	HTH	1,473,601A	1,444,929A	2,918,530A
			HTH	188.00*	188.00*
			HTH	3,200,000B	3,343,944B
18.	Maui Memorial Hospital Operating	HTH	1,486,231A	1,996,565A	3,482,796A
			HTH	417.00*	420.00*
			HTH	9,745,257B	9,909,437B
19.	Hana Medical Center Operating	HTH	208,210A	212,039A	420,249A
			HTH	7.00*	7.00*
			HTH	81,084B	84,768B
20.	Kula Hospital Operating	HTH	1,147,057A	1,205,511A	2,352,568A
			HTH	177.00*	177.00*
			HTH	2,633,802B	2,650,674B
21.	Lanai Hospital Operating	HTH	245,222A	99,332A	344,554A
			HTH	21.00*	21.00*
			HTH	422,650B	459,424B
22.	Kauai Veterans Memorial Hospital Operating	HTH	1,178,009A	1,270,204A	2,448,213A
			HTH	138.00*	138.00*
			HTH	2,500,000B	2,543,380B
23.	Samuel Mahelona Memorial Hospital Operating	HTH	1,386,485A	1,576,199A	2,962,684A
			HTH	141.00*	146.00*

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
24.	Investment: Capital		HTH	1,525,576B	1,594,089B	3,119,665B
	Maluhia Hospital Operating	HTH 241	HTH	566,000C	452,717A	915,526A
25.	Leahi Hospital Operating	HTH 242	HTH	462,809A	180.00*	642,809A
			HTH	3,718,000B	3,757,548B	7,475,548B
26.	MENTAL HEALTH Community Based Services for MH Operating	HTH 401	HTH	2,399,641A	2,483,630A	4,883,271A
			HTH	303.00*	303.00*	606.00*
27.	Hawaii State Hospital Operating	HTH 430	HTH	4,813,041B	4,857,069B	9,670,110B
			HTH	367.00*	366.00*	733.00*
28.	General Support for MH Operating	HTH 495	HTH	9,501,495A	9,599,777A	19,101,272A
			HTH	6.00*	5.00*	11.00*
29.	MENTAL RETARDATION Identification, Evaluation & Treatmt for MR	HTH 500	HTH	3,168,798N	2,717,412N	5,886,210N
			HTH	358.00*	360.00*	718.00*
30.	Hawaii State Hospital Investment: Capital	HTH 430	HTH	7,684,027A	7,834,001A	15,518,028A
			HTH	338,000C	338,000C	676,000C
31.	General Support for MH Operating	HTH 495	HTH	40.50*	40.50*	81.00*
			HTH	867,418A	875,741A	1,743,159A
32.	MENTAL RETARDATION Identification, Evaluation & Treatmt for MR	HTH 500	HTH	3.00*	1.00*	4.00*
			HTH	141,661N	93,239N	234,900N

30.	Operating	HTH	52.35*	52.35*	4,153,733A
		HTH	2,027,240A	2,126,493A	
		HTH	22.20*	*	
		HTH	656,478N	N	656,478N
30.	Community Based Services for MR Operating	HTH	44.00*	50.00*	3,484,984A
		HTH	1,628,069A	1,856,915A	
		HTH	10.00*	*	
		HTH	160,074N	N	160,074N
		HTH		750,000C	750,000C
		HTH			
31.	Waimano Training School and Hospital Operating	HTH	573.00*	566.00*	19,921,107A
		HTH	9,899,798A	10,021,309A	181,760N
		HTH	90,880N	90,880N	9,770,000X
		HTH	4,785,000X	4,985,000X	
32.	COMMUNITY HEALTH SERVICES Vector Control Operating	HTH	86.00*	86.00*	2,941,717A
		HTH	1,476,611A	1,465,106A	
		HTH	2.00*	2.00*	
		HTH	27,409X	27,661X	55,070X
33.	Sanitation & Substance Control Operating	HTH	85.50*	85.50*	3,486,775A
		HTH	1,752,273A	1,734,502A	
34.	Drinking Water Quality Operating	HTH	3.00*	3.00*	116,030A
		HTH	58,015A	58,015A	
		HTH	1.00*	1.00*	
		HTH	270,984N	271,572N	542,556N
35.	Medical Facilities-Stds, Inspection, Licensing Operating	HTH	8.00*	8.00*	353,515A
		HTH	176,529A	176,986A	

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	FY 0 1981-82 F	FY 0 1982-83 F	
36.	OVERALL PROGRAM SUPPORT Laboratory Services Operating	HTH 901	HTH	560*	560*	217,073N	217,073N	434,146N
			HTH	217,073N	217,073N			
37.	Public Health Nursing Services Operating	HTH 902	HTH	54.50*	54.50*	1,131,637A	1,131,637A	2,150,851A
			HTH	1,019,214A	1,019,214A			
38.	Records, Data Collection and Research Operating	HTH 903	HTH	139.00*	139.00*	2,995,659A	2,995,659A	5,864,954A
			HTH	2,869,295A	2,869,295A	4.00*	4.00*	35,648B
39.	Health Education Operating	HTH 908	HTH	17,824B	17,824B	86,243N	86,243N	172,486N
			HTH	86,243N	86,243N			
40.	Comprehensive Health Planning Operating	HTH 906	HTH	36.00*	36.00*	789,299A	789,299A	1,548,686A
			HTH	759,387A	759,387A			
41.	General Administration Operating	HTH 907	HTH	17.00*	17.00*	620,955A	620,955A	1,229,885A
			HTH	608,930A	608,930A	343,129N	343,129N	666,364N
41.	General Administration Operating	HTH 907	HTH	6.00*	6.00*	167,827A	167,827A	334,268A
			HTH	166,441A	166,441A	25.00*	25.00*	668,850N
41.	General Administration Operating	HTH 907	HTH	901,296N	901,296N			1,570,146N
			HTH			123.00*	123.00*	3,055,232A
41.	General Administration Operating	HTH 907	HTH	123.00*	123.00*	2,994,120A	2,994,120A	6,049,352A
			HTH	2,994,120A	2,994,120A			

HTH	13.00*	13.00*	
HTH	809,257B	844,528B	1,653,785B
HTH	5.50*	5.50*	
HTH	332,579N	333,383N	665,962N
HTH	1,472,000C	1,472,000C	1,472,000C
SUB	278,603A	182,653A	461,256A

42. Private Hospitals & Medical Services  
Operating SUB 601

**F. SOCIAL SERVICES**

**1. SERVICES TO INDIVIDUALS AND FAMILIES**

Operating

SOC 111

SOC	81.33*	81.33*	
SOC	5,077,881A	5,436,120A	10,514,001A
SOC	187.67*	187.67*	
SOC	13,269,527N	14,114,477N	27,384,004N
SOC	104,464R	111,068R	215,532R
SOC	279,641U	279,960U	559,601U

**ASSURED STANDARD OF LIVING**

**2. Monetary Assistance for General Needs  
Payments to Assist Families with Depndnt  
Chld**

Operating

SOC 201

SOC	48,356,724A	45,974,000A	94,330,724A
SOC	49,046,476N	47,338,000N	96,384,476N

**3. Payments to Assist the Aged, Blind &  
Disabled  
Operating**

SOC 202

SOC	7,544,553A	7,400,000A	14,944,553A
SOC	486,316N	442,000N	928,316N

**4. Payments to Assist in Child Weifrr Foster  
Care  
Operating**

SOC 203

SOC	1,601,532A	1,728,996A	3,330,528A
SOC	141,872N	150,703N	292,575N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 1981-82 F	FY 1982-83 F	
5.	Other General Assistance Payments Operating	SOC 204	SOC	17,654,508A	16,990,000A	34,644,508A
			SOC	6,593,824N	3,610,000N	10,203,824N
6.	Housing Assistance Rental Housing Augmentation and Assistance Operating	SOC 220	SOC	11.00*	11.00*	
			SOC	3,186,151A	3,567,772A	6,753,923A
			SOC	26.50*	26.50*	
			SOC	1,094,073B	1,156,983B	2,251,056B
			SOC	177.00*	177.00*	
			SOC	13,941,301N	14,857,451N	28,798,752N
	Investment: Capital		SOC	1,150,000C		1,150,000C
7.	Private Housing Development & Ownership Operating	SOC 225	SOC	17.00*	17.00*	
			SOC	552,921B	569,496B	1,122,417B
8.	Broadened Homesite Ownership Operating	SOC 223	SOC	1.00*	1.00*	
			SOC	58,552A	58,711A	117,263A
9.	Teacher Housing Operating	SOC 807	SOC	5.50*	5.50*	
			SOC	148,269B	152,829B	301,098B
10.	Housing Assistance Administration Operating	SOC 229	SOC	4.00*	4.00*	
			SOC	67,318A	68,147A	135,465A
			SOC	9.50*	9.50*	
			SOC	283,735B	289,949B	573,684B
			SOC	14.50*	14.50*	
			SOC	380,191N	384,558N	764,749N

11.	Health Care Payments Operating	SOC 230	SOC	76,595,461A 59,563,766N 4,785,313U	84,247,973A 65,211,714N 4,985,313U	160,843,434A 124,775,480N 9,770,626U
12.	Veterans Cemeteries and Burial Payments Operating	SUB 806	SUB	36,250A	36,250A	72,500A
13.	GENERAL SUPPORT FOR ASSURED STD OF STD LIVING Eligibility Determination Operating	SOC 236	SOC	373.16* 6,109,488A 285.84* 6,981,118N	373.16* 6,309,966A 285.84* 7,469,994N	12,419,454A 14,451,112N
14.	Disability Determination Operating	SOC 238	SOC	51.00* 1,533,395N	51.00* 1,590,492N	3,123,887N
15.	SERVICES TO NATIVE HAWAIIANS Planng, Devpmt and Mgt for Hawn Homestd Lands Operating Investment: Capital	HHL 602	HHL	40.50* 848,291B	44.00* 1,029,330B	1,877,621B 200,000B 12,220,000C 1,800,000N
16.	General Support for Native Hawaiians Operating	HHL 625	HHL	24.00* 721,196B	24.00* 823,235B	1,544,431B
17.	OVERALL PROGRAM SUPPORT FOR SOCIAL SERVICES Progressive Neighborhoods Program Operating	GOV 859	GOV	5.00* 1,621,850A 372,900N	5.00* 698,105A N	2,319,955A 372,900N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agency	FY 0 1981-82 F	FY 0 1982-83 F	M	Total Biennium 1981-83
18.	Hawaii Office of Economic Opportunity Operating	GOV 860	GOV	3.00* 1,675,812A	2.00* 807,633A		2,483,445A
			GOV	3.00* 116,000N	3.00* 116,000N		232,000N
19.	Plan, Prgm Dev & Coord of Svcs for Chd & Yth Operating	GOV 861	GOV	9.00* 287,625A	9.00* 339,982A		627,607A
			GOV	70,000N	N		70,000N
20.	Plan, Prgm Dev & Coord of Svcs for Elderly Operating	GOV 602	GOV	5.80* 1,365,816A	5.80* 1,575,339A		2,941,155A
	Investment: Capital		GOV	8.20* 4,871,833N	8.20* 5,354,190N		10,226,023N
			GOV	C	35,000C		35,000C
21.	Plan, Prgm Dev & Coord of Svcs for Handicppd Operating	HTH 520	HTH	2.00* 123,652A	2.00* 145,093A		268,745A
22.	Plan, Prgm Dev & Coord of Svcs for Immigrants Operating	GOV 803	GOV	4.00* 195,866A	4.00* 205,096A		400,962A
23.	General Support for Public Welfare Operating	SOC 903	SOC	30.40* 1,955,822A	30.40* 2,104,868A		4,060,690A
			SOC	49.60* 49,60*	49.60* 49,60*		49,60*



SOC	3,024,672N	3,216,599N	6,241,271N
SOC	150,77*	150,77*	
SOC	2,707,223A	2,771,224A	5,478,447A
SOC	20,23*	20,23*	
SOC	581,335N	593,676N	1,175,011N

24. General Administration (DSSH) SOC 904  
Operating

**G. FORMAL EDUCATION**

**LOWER EDUCATION**

1. Instruction			
Regular Instruction Program			
Operating	EDN 105		
Investment: Capital		6,180,50*	280,889,358A
		136,715,505A	22,751,489N
		14,422,658N	33,805,000C
		13,859,000C	

2. Other Regular Instruction Programs	EDN 106		
Operating		549,50*	36,581,736A
		20,933,844A	1,999,198B
		999,599B	191,845N
		95,011N	

3. Exceptional Child Program	EDN 107		
Operating		963,50*	43,411,299A
		21,997,870A	90,676B
		53,170B	5,282,245N
		2,626,353N	1,134,000C
		1,034,000C	

4. Compensatory Education	EDN 108		
Operating		108,00*	15,067,945A
		7,691,735A	32,184,851N
		16,218,112N	

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
5.	Instructional Administration and Support School Administration Operating	EDN 203	EDN	800.50*	810.50*	36,595,137A 743,000C
			EDN	18,029,818A	18,565,319A	
			EDN	C	743,000C	
6.	Instructional Media Operating	EDN 204	EDN	261.50*	262.50*	14,246,769A 1,836,097N
			EDN	7,043,755A	7,203,014A	
			EDN	878,190N	957,907N	
7.	Instructional Development Operating	EDN 205	EDN	109.00*	109.00*	10,199,647A 2,711,247N
			EDN	4,968,031A	5,231,616A	
			EDN	1,370,492N	1,340,755N	
8.	Counseling Operating	EDN 206	EDN	311.50*	312.00*	14,442,242A
			EDN	7,201,984A	7,240,258A	
9.	Student Activities Operating	EDN 207	EDN	*	35.00*	4,833,590A
			EDN	2,358,973A	2,474,617A	
10.	Psychological & School Social Work Services Operating	EDN 208	EDN	164.00*	164.00*	8,301,387A
			EDN	4,090,405A	4,210,982A	
11.	Institutional Administration and Support State Administration Operating	EDN 303	EDN	211.00*	211.00*	14,478,346A 1,106,307N
			EDN	6,289,651A	8,188,695A	
			EDN	562,695N	543,612N	

12.	District Administration Operating	EDN 304	EDN EDN	216.00* 6,621,120A	216.00* 6,657,537A	13,278,657A
13.	School Food Services Operating	EDN 305	EDN EDN EDN EDN EDN	199.50* 10,922,177A 711.50* 6,525,504B 12,242,587N	199.50* 11,303,359A 711.50* 6,513,775B 12,938,154N	22,225,536A 13,039,279B 25,180,741N
14.	Safety and Security Services Operating	EDN 306	EDN	2,082,324A	2,046,513A	4,128,837A
15.	Physical Plant Operations & Maintenance- EDN Operating	EDN 307	EDN EDN	1,012.10* 22,927,089A	1,014.10* 26,078,777A	49,005,866A
16.	Physical Plant Operations & Maintenance- AGS Operating	AGS 807	AGS AGS	231.00* 12,989,344A	231.00* 13,294,612A	26,283,956A
17.	Student Transportation Operating	AGS 808	AGS AGS	7.00* 13,248,941A	7.00* 15,238,531A	28,487,472A
18.	Public Service Adult Education Operating	EDN 406	EDN EDN EDN EDN EDN EDN	23.00* 1,969,810A 1.00* 333,115B 1.00* 480,653N	23.00* 1,990,177A 1.00* 354,966B 1.00* 491,394N	3,959,987A 688,081B 972,047N
19.	Public Libraries	EDN 407				

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agency	M		Total Biennium 1981-83
				FY O 1981-82 F	FY O 1982-83 F	
	Operating		EDN	436,55*	441,55*	20,755,483A
			EDN	9,663,497A	11,091,986A	980,260N
	Investment: Capital		EDN	490,130N	490,130N	2,395,000C
HIGHER EDUCATION						
University of Hawaii, Manoa						
20.	Instruction—UOH, Manoa Operating	UOH 101	UOH	1,519.39*	1,526.54*	89,420,690A
			UOH	44,301,622A	45,119,068A	
			UOH	8.00*	8.00*	
			UOH	3,535,320B	3,765,244B	7,300,564B
			UOH	4.15*	*	
			UOH	603,031N	277,785N	880,816N
	Investment: Capital		UOH	4,848,000C	C	4,848,000C
21.	Organized Research—UOH, Manoa Research and Development Operating	UOH 102	UOH	300,000A	300,000A	600,000A
			UOH	477.22*	477.22*	
			UOH	15,864,129A	16,697,805A	32,561,934A
			UOH	34.42*	34.42*	
			UOH	1,342,481N	1,217,481N	2,559,962N
			UOH	845,000W	850,000W	1,695,000W
	Investment: Capital		UOH	400,000C	1,540,000C	
		UOH	1,140,000C	2,000,000E	2,000,000E	
		UOH	E			
22.	Public Service—UOH, Manoa Operating	UOH 103	UOH	90.41*	90.41*	6,575,924A
			UOH	3,257,807A	3,318,117A	
			UOH	6.00*	6.00*	
			UOH	1,271,802B	1,364,787B	2,636,589B
			UOH	43.64*	43.64*	



APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
27.	Investment: Capital Public Service — UOH, Hilo Operating	UOH 213	UOH	413,996B	419,719B	833,715B
			UOH	103,223N	103,223N	206,446N
			UOH	165,913W	182,357W	348,270W
			UOH	1,340,000C	C	1,340,000C
28.	Academic Support — UOH, Hilo Operating	UOH 214	UOH	34,406A	34,718A	69,124A
			UOH	157,931B	162,950B	320,881B
			UOH	43,00*	43,00*	
			UOH	1,353,486A	1,581,082A	2,934,568A
29.	Student Services — UOH, Hilo Operating	UOH 215	UOH	7,00*	7,00*	
			UOH	188,997B	196,565B	385,562B
			UOH	25,00*	25,00*	
			UOH	934,907A	981,193A	1,916,100A
30.	Investment: Capital Institutional Support — UOH, Hilo Operating	UOH 216	UOH	394,543N	394,543N	789,086N
			UOH	6,00*	6,00*	
			UOH	556,266W	584,788W	1,141,054W
			UOH	71,628X	77,887X	149,515X
			UOH	E	300,000E	300,000E
			UOH	N	3,500,000N	3,500,000N
31.	Honolulu Community College Instruction — Honolulu Community		UOH	45,00*	45,00*	
			UOH	2,071,597A	2,005,959A	4,077,556A
			UOH	14,689B	16,033B	30,722B
			UOH	140,000C	C	140,000C

32.	College Operating	UOH 301	UOH UOH UOH UOH UOH	123.00* 3,378,322A 180,828N 169,812W 135,000C	123.00* 3,430,385A 180,828N 184,749W C	6,808,707A 361,656N 354,561W 135,000C
	Investment: Capital					
32.	Public Service—Honolulu Community College Operating	UOH 302	UOH UOH UOH	7.00* 523,959A 214,296B	7.00* 529,571A 215,408B	1,053,530A 429,704B
33.	Academic Support—Honolulu Community College Operating	UOH 303	UOH UOH	28.00* 585,119A	28.00* 599,998A	1,185,117A
34.	Student Services—Honolulu Community College Operating	UOH 304	UOH UOH UOH UOH	20.00* 452,442A 111,000N 4,779W	20.00* 462,227A 111,000N 5,223W	914,669A 222,000N 10,002W
35.	Institutional Support—Honolulu CC Operating	UOH 305	UOH UOH UOH UOH UOH	36.00* 1,506,940A 32,257B 63,316W 416,000C	36.00* 1,664,183A 35,256B 69,204W C	3,171,123A 67,513B 132,520W 416,000C
	Investment: Capital					
36.	Kapiolani Community College Instruction—Kapiolani Community College Operating	UOH 311	UOH UOH UOH	110.00* 3,559,796A 88,562N	110.00* 3,563,107A 88,562N	7,122,903A 177,124N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY O 1981-82 F	FY O 1982-83 F	M	Total Biennium 1981-83
37.	Public Service—Kapiolani Community College Operating	UOH 312	UOH UOH	4.00* 308,466W	4.00* 331,409W		639,875W
38.	Academic Support—Kapiolani Community College Operating	UOH 313	UOH UOH	1.00* 52,255A 1.00* 197,796B	1.00* 53,435A 1.00* 202,225B		105,690A 400,021B
39.	Student Services—Kapiolani Community College Operating	UOH 314	UOH UOH	16.00* 510,457A	16.00* 526,549A		1,037,006A
40.	Institutional Support—Kapiolani CC Operating	UOH 315	UOH UOH UOH UOH	17.00* 414,323A 150,000N 7,521W	20.00* 439,657A 150,000N 7,953W		853,980A 300,000N 15,474W
41.	Leeward Community College Instruction—Leeward Community College Operating	UOH 321	UOH UOH UOH UOH	29.00* 1,027,467A 5,389B 65,843W	29.00* 1,365,213A 6,111B 71,271W		2,392,680A 11,500B 137,114W 6,320,000C
	Investment: Capital		UOH	2,051,000C	4,269,000C		
			UOH	147.00*	148.00*		





APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
47.	Public Service—Windward Community College Operating	UOH 332	UOH UOH UOH	2.00*	2.00*	127,365A
				61,274A	66,091A	169,286B
				83,402B	85,884B	
48.	Academic Support—Windward Community College Operating	UOH 333	UOH UOH	11.00*	11.00*	698,770A
				334,674A	364,096A	
49.	Student Services—Windward Community College Operating	UOH 334	UOH UOH UOH UOH	9.00*	9.00*	435,725A
				215,905A	219,820A	110,960N
				55,480N	55,480N	5,751W
				2,748W	3,003W	
50.	Institutional Support—Windward CC Operating	UOH 335	UOH UOH UOH UOH	15.00*	15.00*	900,639A
				424,709A	475,930A	91,868W
				1.00*	1.00*	
				44,539W	47,329W	
51.	Maui Community College Instruction—Maui Community College Operating	UOH 501	UOH UOH UOH UOH UOH	62.50*	62.50*	3,364,130A
				1,675,835A	1,688,295A	52,180N
				26,090N	26,090N	
				2.00*	2.00*	
				145,290W	156,393W	301,683W
52.	Public Service—Maui Community					

	College Operating	UOH 502	UOH UOH UOH	2.50* 98,344A 18,330B	2.50* 195,529A 36,327B
53.	Academic Support — Maui Community College Operating	UOH 503	UOH UOH	11.50* 317,417A	14.00* 346,999A 664,416A
54.	Student Services — Maui Community College Operating	UOH 504	UOH UOH UOH UOH UOH UOH	9.50* 261,968A 2.00* 79,555B 118,000N 3,584W	9.50* 265,283A 2.00* 120,326B 118,000N 3,917W 527,251A 199,881B 236,000N 7,501W
55.	Institutional Support — Maui Community College Operating Investment: Capital	UOH 505	UOH UOH UOH UOH	19.00* 753,158A 3,584B 68,000C	19.00* 894,815A 3,917B C 1,647,973A 7,501B 68,000C
56.	Kauai Community College Instruction — Kauai Community College Operating	UOH 601	UOH UOH UOH UOH	47.00* 1,197,160A 1,735N 8,364W	47.00* 1,216,798A 1,735N 9,142W 2,413,958A 3,470N 17,506W
57.	Public Service — Kauai Community College Operating	UOH 602	UOH UOH UOH	.50* 15,487A 17,849B	.50* 15,735A 18,182B 31,222A 36,031B

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY O 1981-82 F	FY O 1982-83 F	
58.	Academic Support—Kauai Community College Operating	UOH 603	UOH UOH	10.50*	10.50*	637,382A
				313,103A	324,279A	
59.	Student Services—Kauai Community College Operating	UOH 604	UOH UOH UOH UOH	8.00*	10.00*	423,203A 72,000N 5,000W
				203,558A	219,645A	
				36,000N	36,000N	
				2,389W	2,611W	
60.	Institutional Support—Kauai CC Operating	UOH 605	UOH UOH UOH	25.50*	25.50*	2,540,541A 37,506B
				1,241,326A	1,299,215A	
				17,920B	19,586B	
61.	West Oahu College Instruction—West Oahu College Operating	UOH 701	UOH UOH	9.00*	9.00*	521,739A
				255,753A	265,986A	
62.	Academic Support—West Oahu College Operating	UOH 704	UOH UOH	3.50*	3.50*	249,758A
				123,520A	126,238A	
63.	Student Services—West Oahu College Operating	UOH 705	UOH UOH	2.00*	2.00*	145,995A
				72,115A	73,880A	
64.	Institutional Support—West Oahu College Operating	UOH 706	UOH	4.00*	5.00*	

65.	Higher Education State-wide Support Academic Support — UOH, System-wide Support	UOH	257,074A	283,375A	540,449A
	Operating	UOH 901			
		UOH	31.00*	38.00*	
		UOH	2,172,488A	2,843,203A	5,015,691A
		UOH	733,483B	1,220,351B	1,953,834B
66.	Student Services — UOH, System-wide Support	UOH	4.00*	4.00*	1,119,364A
	Operating	UOH 902	538,578A	580,786A	
67.	Institutional Sppt-UOH, System-Wide Sppt	UOH	188.75*	181.75*	9,778,371A
	Operating	UOH 903	4,867,295A	4,911,076A	4,400,000C
	Investment: Capital	UOH	3,200,000C	1,200,000C	
68.	Vocational Education, Statewide Coordination	UOH	7.00*	7.00*	331,928A
	Operating	UOH 904	160,886A	171,042A	
		UOH	6.00*	6.00*	
		UOH	436,312N	339,166N	775,478N
69.	Statewide Plan & Coord for Post-Secondary Ed	UOH	1,239,800A	1,315,400A	2,555,200A
	Operating	UOH 905			
70.	Community College Systemwide Support	UOH	25.00*	25.00*	2,248,632A
	Operating	UOH 906	991,617A	1,257,015A	
		UOH	16.00*	16.00*	
		UOH	952,634B	963,086B	1,915,720B
		UOH	39.50*	39.50*	
		UOH	1,797,122N	1,713,969N	3,511,091N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
			UOH	3.00*	3.00*	368,749W
			UOH	178,326W	190,423W	
<b>H. CULTURE AND RECREATION</b>						
<b>CULTURAL ACTIVITIES</b>						
1.	Historical and Archaeological Places Operating	LNR 801	LNR	18.00*	18.00*	
	Investment: Capital		LNR	642,856A	746,988A	1,389,844A
			LNR	550,000C	300,000C	850,000C
2.	Aquaria Operating	UOH 881	UOH	11.00*	11.00*	610,009A
			UOH	347,577A	262,432A	
3.	Hawaii Public Broadcasting Operating	REG 701	REG	36.00*	36.00*	2,409,981A
			REG	1,204,029A	1,205,952A	
			REG	1.00*	1.00*	
			REG	972,993W	1,044,338W	2,017,331W
4.	Performing & Visual Arts Events Operating	AGS 881	AGS	10.00*	10.00*	1,479,860A
			AGS	710,051A	769,809A	1,131,470N
			AGS	585,000N	546,470N	180,000R
			AGS	90,000R	90,000R	
5.	Ethnic Group Presentations Operating	AGS 818	AGS	41,316A	44,117A	85,433A
			AGS	10,942B	7,500B	18,442B
6.	RECREATIONAL ACTIVITIES Forest Recreation	LNR 804				

Operating	LNR	28.00*	28.00*	28.00*	LNR	1,020,462A
	LNR	522,781A	497,681A	497,681A	LNR	400,000N
	LNR	200,000N	200,000N	200,000N		
7. Aquatic Recreation	LNR 805					
Operating	LNR	16.00*	16.00*	16.00*	LNR	616,701A
	LNR	309,846A	309,846A	309,846A	LNR	369,205N
	LNR	182,686N	182,686N	182,686N		
8. Parks Recreation	LNR 806					
Operating	LNR	104.00*	104.00*	104.00*	LNR	4,581,245A
Investment: Capital	LNR	2,283,882A	2,297,363A	2,297,363A	LNR	2,020,000C
	LNR	1,520,000C	500,000C	500,000C		
9. Ocean-based Recreation	TRN 801					
Operating	TRN	46.50*	48.50*	48.50*	TRN	5,697,169B
	TRN	2,728,991B	2,968,178B	2,968,178B	TRN	300,000C
Investment: Capital	TRN	C	300,000C	300,000C	TRN	1,397,000D
	TRN	1,397,000D	D	D	TRN	463,000N
	TRN	463,000N	N	N		
10. Spectator Events & Shows - Aloha Stadium	AGS 889					
Operating	AGS	584,831A	651,701A	651,701A	AGS	1,236,532A
	AGS	34.00*	34.00*	34.00*	AGS	2,095,801B
Investment: Capital	AGS	1,062,397B	1,033,404B	1,033,404B	AGS	2,390,000C
	AGS	1,300,000C	1,090,000C	1,090,000C		
11. GENERAL ADMIN FOR CULTURE & RECREATION	LNR 809					
Operating	LNR	23.50*	23.50*	23.50*	LNR	896,846A
	LNR	448,839A	448,007A	448,007A	LNR	6,137,034N
Investment: Capital	LNR	3,068,995N	3,068,039N	3,068,039N	LNR	40,000A
	LNR	40,000A	A	A	LNR	40,000N
	LNR	40,000N	N	N		
I. PUBLIC SAFETY						
SAFETY FROM CRIMINAL ACTIONS						
1. Intake Service Centers	SOC 394					

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		M		Total Biennium 1981-83
				FY 1981-82	FY 1982-83	FY 1981-82	FY 1982-83	
	Operating		SOC	51.00*	51.00*	1,180,354A	6,570N	2,177,879A
			SOC	997,525A				174,911N
			SOC	168,341N				
2.	Confinement Juvenile Correctional Facilities Operating	SOC 401	SOC	89.00*	89.00*	2,410,847A		4,592,353A
			SOC	2,181,506A				1,345,000C
	Investment: Capital		SOC	1,345,000C				
3.	High Security Facility Operating	SOC 402	SOC	152.00*	150.00*	3,088,506A		5,903,444A
			SOC	2,814,938A				153,764B
			SOC	153,764B				
4.	Kulani Correctional Facility Operating	SOC 403	SOC	51.83*	53.83*	1,524,051A		2,796,130A
			SOC	1,272,079A				323,000C
	Investment: Capital		SOC	323,000C				
5.	In-Community Facilities Operating	SOC 404	SOC	15.00*	15.00*	562,180A		1,033,757A
			SOC	471,577A				
6.	Hawaii Community Correctional Center Operating	SOC 405	SOC	33.00*	33.00*	727,950A		1,378,135A
			SOC	650,185A				
7.	Maui Community Correctional Center Operating	SOC 406	SOC	29.00*	29.00*	641,084A		1,258,493A
			SOC	617,409A				
8.	Oahu Community Correctional Center	SOC 407						



9.	Operating Investment: Capital	SOC	391.80*	470.80*	19,807,283A
			8,478,149A	11,329,134A	20,000A
			A	20,000A	1,150,000C
			1,150,000C		
9.	Kauai Community Correctional Center Operating	SOC	27.00*	27.00*	1,250,134A
			598,011A	652,123A	
10.	Social Rehabilitation of Confined Adults Operating	UOH	6.00*	6.00*	344,511A
			170,224A	174,287A	68,054N
			34,027N	34,027N	5,000W
			2,389W	2,611W	
11.	Parole Supervision and Counseling Adult Parole Determinations Operating	SOC	2.00*	2.00*	129,610A
			64,752A	64,858A	
12.	Adult Parole Supervision and Counseling Operating	SOC	19.00*	19.00*	664,387A
			330,876A	333,511A	
13.	Criminal Injuries Compensation Operating	SOC	3.00*	3.00*	156,534A
			77,418A	79,116A	
14.	General Support - Criminal Action Criminal Data and Crime Statistics Operating	ATG	11.00*	11.00*	397,321A
			193,521A	203,800A	
15.	Criminal Justice Planning & Prg Implementatn Operating	ATG	2.45*	2.45*	285,019A
			148,691A	136,328A	4.55*
			4.55*		

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 1981-82 F	FY 1982-83 F	
16.	General Adm - Confinement Operating	SOC 493	ATG	941,766N	745,623N	1,687,389N
				21.00*	25.00*	
				SOC 341,332A	694,770A	1,036,102A
				SOC 181,065B	150,000A	181,065B
	Investment: Capital	A	150,000A		150,000A	
		SOC 7,329,000C	538,000C	7,867,000C		
17.	Statistical Analysis Center Operating	ATG 231	ATG 13.00*	13.00*		
			ATG 493,279A	517,688A	1,010,967A	
18.	SAFETY FROM PHYSICAL DISASTERS Prevention of Natural Disasters Operating	LNR 810	LNR 3.00*	3.00*		
			LNR 97,498A	105,197A	202,695A	
19.	Amelioration of Physical Disasters Operating	DEF 110	DEF 130.00*	130.00*		
			DEF 5,419,329A	5,688,737A	11,108,066A	
			DEF 3.00*	3.00*		
			DEF 850,652N	830,825N	1,681,477N	
			DEF 1,118,000C	1,099,000C	2,217,000C	
			DEF 934,000N	987,000N	1,921,000N	
I.	J. INDIVIDUAL RIGHTS PROTECTION OF THE CONSUMER Testing & Certification of Consumer Goods Operating	AGR 810	AGR 26.75*	26.75*		
			AGR 530,461A	540,103A	1,070,564A	
			AGR 26.75*	26.75*		
			AGR 609,333N	612,262N	1,221,595N	

2.	Regulation of Services Consumer Advocate for Comm, Util & Trans Svc Operating	REG 103	REG	35.00*	35.00*	1,866,717A
			REG	874,894A	991,823A	
			REG	4.00*	4.00*	
			REG	190,997X	197,285X	388,282X
3.	Banking Services Operating	REG 104	REG	26.00*	26.00*	1,232,794A
			REG	617,618A	615,176A	12,000,000C
			REG	C	12,000,000C	
4.	Insurance Services Operating	REG 106	REG	28.00*	28.00*	1,200,414A
			REG	595,401A	605,013A	
5.	Professional, Vocational & Personal Svcs Operating	REG 105	REG	35.00*	35.00*	2,244,383A
			REG	1,050,765A	1,193,618A	
6.	Transportation, Communications, & Utilities Operating	BUF 901	BUF	19.00*	19.00*	1,293,568A
			BUF	638,444A	655,124A	
7.	Enforcement of Fair Business Practices Business Registration Operating	REG 111	REG	23.00*	23.00*	705,373A
			REG	352,702A	352,671A	
8.	Measurement Standards Operating	AGR 812	AGR	20.00*	20.00*	866,627A
			AGR	432,296A	434,331A	
9.	Offic of Consumer Prot - Adv & Terms of Sale Operating	REG 110	REG	28.00*	28.00*	

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
10.	General Support - Protection of the Consumer Operating	REG 191	REG REG	568,584A	45.00* 1,025,635A	1,141,875A 2,031,737A
11.	LEGAL & JUDICIAL PROTECTION OF RIGHTS Legal Assistance in Criminal Actions Operating	BUF 151	BUF BUF	63.00* 1,769,655A	63.00* 2,100,403A	3,870,058A
12.	Conveyances and Recordings Operating	LNR 111	LNR LNR	44.00* 777,852A	44.00* 781,652A	1,559,504A
13.	Commission on the Status of Women Operating	SOC 888	SOC SOC	2.00* 38,659A	2.00* 32,937A	71,596A
<b>K. GOVERNMENT-WIDE SUPPORT</b>						
EXEC DIRECTIN, COORD, & POLICY DEVELOPMENT						
1.	Office of the Governor Operating Investment: Capital	GOV 100	GOV GOV GOV	43.00* 1,549,293A 3,000,000C	43.00* 1,714,252A C	3,263,545A 3,000,000C
2.	Office of the Lieutenant Governor Operating	LTG 100	LTG LTG	24.00* 1,574,685A	24.00* 2,837,382A	4,412,067A

3.	Policy Development and Coordination BUF—Prgrm Plannng, Analysis & Budgeting Operating	BUF 101	69.00* 5,597,267A 263,093B 157,427N 432R 11,471W 2,944X	69.00* 11,827,057A 1,272,003B 618,390N 886R 50,958W 27,351X	17,424,324A 1,535,096B 775,817N 1,318R 62,429W 30,295X
4.	Statewide Plan and Coordination Operating Investment: Capital	PED 103	54.00* 1,665,205A 1,189,479N C	54.00* 1,677,872A 448,000N 5,555,000C	3,343,077A 1,637,479N 5,555,000C
5.	Gov—Oth Policy Development & Coordination Operating	GOV 102	12.00* 796,697A N	12.00* 922,261A 163,027N	1,718,958A 163,027N
6.	FISCAL MANAGEMENT Revenue Collection Income Assessment and Audit Operating	TAX 102	168.00* 3,150,158A	168.00* 3,122,598A	6,272,756A
7.	Tax Collection Operating	TAX 103	82.00* 1,386,719A	82.00* 1,356,036A	2,742,755A
8.	Supporting Services—Revenue Collection Operating	TAX 107	73.00* 3,076,905A	73.00* 2,738,582A	5,815,487A

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M		Total Biennium 1981-83
				FY 0 1981-82 F	FY 0 1982-83 F	
9.	Fiscal Procedures and Control Acct System Development & Maintenance Operating	AGS 101	AGS AGS	9.00*	9.00*	443,951A
				221,733A	222,218A	
10.	Expenditure Examination Operating	AGS 102	AGS AGS	23.00*	23.00*	1,148,634A
				564,668A	583,966A	
11.	Recording and Reporting Operating	AGS 103	AGS AGS	15.00*	15.00*	754,133A
				370,809A	383,324A	
12.	Internal Post Audit Operating	AGS 104	AGS AGS	19.00*	19.00*	1,570,906A
				778,178A	792,728A	
13.	Cash and Debt Management Operating	BUF 110	BUF BUF BUF BUF	16.00*	16.00*	376,301,356A 468,064B 10,000U
				178,333,894A	197,967,462A	
				305,756B	162,308B	
				5,000U	5,000U	
14.	GENERAL SERVICES Legal Services Operating	ATG 100	ATG ATG ATG ATG ATG	96.30*	101.30*	8,622,785A 923,472N 1,667,921U
				4,062,940A	4,559,845A	
				11,70*	11,70*	
				397,389N	526,083N	
				30,00*	30,00*	
				767,662U	900,259U	

15.	Electronic Data Processing Services Operating	BUF 131	203.00* 5,718,477A 25.00* 1,699,739U	203.00* 6,465,332A 25.00* 1,374,706U	12,183,809A 3,074,445U
16.	Records Management Operating	AGS 111	24.00* 401,095A	24.00* 358,758A	759,853A
17.	Personnel Services Work Force Attr, Select, Class, & Effect Operating	PER 102	77.00* 1,755,974A	77.00* 1,769,444A	3,525,418A
18.	Supporting Services—Personnel Services Operating	PER 191	12.00* 443,084A	12.00* 460,277A	903,361A
19.	Employee Fringe Benefit Administration Retirement Operating	BUF 141	23.94* 92,493,542A 8.06* 272,918S	23.94* 118,244,667A 8.06* 280,766S	210,738,209A 553,684S
20.	Group Life Insurance, Med, Hosp & Dntd Bnfits Operating	BUF 142	11.00* 20,000,000A 11,197,920S	11.00* 21,300,000A 13,437,504S	41,300,000A 24,635,424S
21.	Property Management Public Lands Management Operating Investment: Capital	LNR 101	35.00* 693,412A 4,500,000A 400,000C	35.00* 693,241A 1,500,000A 400,000C	1,388,653A 6,000,000A 800,000C

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	M FY 0 1981-82 F	M FY 0 1982-83 F	Total Biennium 1981-83
22.	Insurance Management Operating	AGS 203	AGS AGS	5,922,038A 626,226U	7,004,716A 690,404U	12,926,754A 1,316,630U
23.	Land Survey Operating	AGS 211	AGS AGS	28.00* 607,750A	28.00* 606,319A	1,214,069A
24.	Facilities Construction and Maintenance Construction Operating Investment: Capital	AGS 221	AGS AGS AGS AGS	20.00* 452,851A 2,805,000C 3,546,000D	20.00* 453,746A 2,214,000C D	906,597A 5,019,000C 3,546,000D
25.	Custodial Services Operating	AGS 231	AGS AGS AGS	140.50* 6,577,310A 250,700U	150.50* 7,702,722A 270,756U	14,280,032A 521,456U
26.	Grounds Maintenance Operating	AGS 232	AGS AGS	39.50* 552,378A	39.50* 594,209A	1,146,587A
27.	Building Repairs and Alterations Operating	AGS 233	AGS AGS	24.00* 1,809,574A	24.00* 1,798,804A	3,608,378A
28.	Purchasing and Supplies Central Purchasing Operating	AGS 240	AGS AGS AGS	15.00* 255,200A 18,000W	15.00* 254,749A 19,000W	509,949A 37,000W



29.	Surplus Property Management Operating	AGS 244	AGS AGS	5.00* 133,538W	5.00* 174,641W	308,179W
30.	Motor Pool Operating	AGS 251	AGS AGS	8.50* 457,008W	8.50* 494,217W	951,225W
31.	Parking Control Operating	AGS 252	AGS AGS	12.50* 579,032W	12.50* 561,155W	1,140,187W
32.	Communication Operating	AGS 263	AGS AGS AGS	16.00* 1,554,487A 652,426U	16.00* 1,633,576A 680,820U	3,188,063A 1,333,246U
33.	Capitol Building Security Operating	ATG 801	ATG ATG	36.00* 571,267A	36.00* 573,378A	1,144,645A
34.	Other State Buildings Security Operating	AGS 301	AGS AGS	10.00* 119,987A	10.00* 120,395A	240,382A
35.	Genrl Adm Svcs—Accounting & General Svcs Operating	AGS 901	AGS AGS	39.00* 813,496A	53.00* 3,309,260A	4,122,756A
36.	Subsidies to Counties Grants In Aid to Counties Operating	SUB 101	SUB	19,447,551A	19,447,551A	38,895,102A

SECTION 4. Part III, of Act 1, First Special Session Laws of Hawaii, 1981, is amended:

(1) By amending Section 4 to read:

"SECTION 4. Provided that of the general fund appropriation to the Commerce and Industry Program (PED 102), \$130,000 for each year of the fiscal biennium 1981-1983 shall be used to promote the development of high technology industries in Hawaii; provided further, that the Director of Planning and Economic Development is authorized to hire temporary staff exempt from chapters 76 and 77, Hawaii Revised Statutes, to carry out this project."

(2) By adding a new Section to read:

"SECTION 5B. Provided that of the general fund appropriation for fiscal year 1982-83 for Tourism (PED 113), \$750,000 shall be used to promote Hawaii as a visitor destination in the North American continent, and \$250,000 shall be used to promote Hawaii as a visitor destination in Taiwan, Singapore, Korea, Hong Kong and Japan."

(2a) By adding a new Section to read:

"SECTION 5C. Provided that of the general funds appropriated for fiscal year 1982-83 to Commerce and Industry (PED 102), \$75,000 shall be used for a study and evaluation of expanding the private sector ship repair capability in Hawaii."

(3) By adding a new Section to read:

"SECTION 7A. Provided that of the general fund appropriation in fiscal year 1982-83 to the Plant Pest Control Program (AGR 122), \$100,000 shall be used for research and to reduce the fruit fly population in the state, including upgrading and expanding the department of agriculture's greenhouse facility and insectory for insect pest control."

(4) By adding a new Section to read:

"SECTION 10A. Provided that of the general fund appropriation in fiscal year 1982-83 to Distribution Systems Improvement for Agriculture (AGR 151), \$200,000 shall be used to promote fresh pineapples in the United States west of the Rocky Mountains, and in western Canada; provided further, that these funds shall not be expended unless matched dollar for dollar by private contributions."

(5) By adding a new Section to read:

"SECTION 14B. Provided that of the general fund appropriation for fiscal year 1982-83 to General Administration for Agriculture (AGR 192), \$75,000 shall be for the new/young farmer program."

(6) By adding a new Section to read:

"SECTION 14C. Provided that of the general fund appropriation for fiscal year 1982-83 to Commercial Fishery and Aquaculture (LNR 153), \$200,000 shall be used to conduct a comprehensive study to determine the feasibility of a support facility on Midway to service American fishing vessels and to determine the proper location and size of facilities necessary to support projected fishing fleet growth in Hawaii."

(7) By adding a new Section to read:

"SECTION 14D. Provided that of the general fund appropriation in fiscal

year 1982-83 to General Support for Marine Programs (PED 109), \$211,000 shall be used for an interim hypobaric chamber as follows: \$85,000 for staff support, \$73,500 for start-up costs and \$52,000 for operating costs."

(8) By adding a new Section to read:

"SECTION 15A. Provided that of the general fund appropriation for fiscal year 1982-83 for Placement Services (LBR 111), \$49,000 shall be used for a study to evaluate and assist displaced sugar workers in finding other means of employment."

(9) By adding a new Section to read:

"SECTION 17A. Provided that of the general fund appropriation in fiscal year 1982-83 for DLIR-Data Gathering, Research and Analysis (LBR 901), \$569,612 shall be allotted for the career planning project known as Quick Kokua; provided further, that the department of labor and industrial relations shall submit a report on the transfer of this project twenty (20) days prior to the convening of the 1983 Regular Session of the Legislature."

(10) By adding a new Section to read:

"SECTION 18A. Provided that of the general fund appropriation for DLIR-Data Gathering, Research and Analysis (LBR 901), \$128,500 in fiscal year 1982-83 shall be used for the Career Resource Centers located at Waiialua and Kaimuki High Schools."

(11) By adding a new Section to read:

"SECTION 20A. Provided that of the special fund appropriation for fiscal year 1982-83 to Air Transportation Facilities and Services (TRN 195), \$148,987 shall be for the Civil Air Patrol; provided further that none of these funds shall be used to pay salaries of any assistants employed by the wing commander in excess of the SR-21 B step."

(12) By adding a new Section to read:

"SECTION 22A. Provided that of the special fund appropriation to the Overall Support for Transportation and Services (TRN 995) \$100,000 for fiscal year 1982-83 shall be for the Oahu Metropolitan Planning Organization (OMPO) which shall be used for the State's share of the cost to update the Oahu Transportation study; provided further that said appropriation shall not be released if the \$100,000 appropriation provided for the same purpose in fiscal year 1981-82 is encumbered by June 30, 1982."

(13) By adding a new Section to read:

"SECTION 24A. Provided that of the general fund appropriation to Other Communicable Disease (HTH 131) no more than \$26,830 in fiscal year 1982-83 shall be expended for measles, mumps and rubella vaccines; provided further, that the Department of Health develop a means test to screen requests for such vaccines to ensure that free vaccines are administered only to indigents in need of immunization; and provided further, that in the event of an outbreak or epidemic of the above diseases these funds may be used to provide vaccines to the general populace."

(14) By adding a new Section to read:

"SECTION 26A. Provided that the department of health shall negotiate and prepare contracts for the provision of emergency medical services prior to the legislative session in order to provide the Legislature with complete and reliable data on the cost of funding EMS."

(14a) By adding a new Section to read:

“SECTION 26B. Provided that of the general fund appropriation in fiscal year 1982-83 to Community Based Services for Mental Health (HTH 401), \$25,000 shall be used for residential mental health programs on the island of Hawaii.”

(14b) By adding a new Section to read:

“SECTION 26C. Provided that of the general fund appropriation in fiscal year 1982-83 to Community Based Services for Mental Health (HTH 401), \$13,709 for the Poailani Transitional Living program and \$13,709 for The House, Inc, respectively intended as state matching funds for anticipated federal funds, shall respectively be allocated to these two programs even if such federal funds are no longer available or are reduced.”

(15) By adding a new Section to read:

“SECTION 27A. Provided that of the general fund appropriation to Community Based Services for Mental Retardation (HTH 501), \$75,000 shall be used in fiscal year 1982-83 for a purchase of service contract to provide adult day treatment services to developmentally disabled individuals.”

(16) By adding a new Section to read:

“SECTION 34A. Provided that of the general fund appropriation in fiscal year 1982-83 to the Child Support Enforcement Program (SOC 236), \$32,901 shall be to fund thirteen temporary positions for the computerization of manual files; provided further, that if for any reason conversion is not completed in fiscal year 1982-83, the department of social services and housing shall fund any further conversion efforts through internal cost savings.”

(17) By adding a new Section to read:

“SECTION 39A. Provided that of the general funds appropriated in fiscal year 1982-1983 to the Executive Office on Aging (GOV 602), \$75,000 shall be for a grants-in-aid to the Area Agencies on Aging on the counties of Hawaii, Kauai, and Maui; provided further, that the funds shall be used to expand the Small Group Homes Program of the department of social services and housing to these counties; provided further, that the director of the Executive Office on Aging shall submit a progress report on the implementation of this program in the various counties twenty (20) days prior to the convening of the 1983 Regular Session of the Legislature.”

(18) By adding a new Section to read:

“SECTION 39B. Provided that of the funds appropriated for General Support for Public Welfare (SOC 903) for the fiscal year 1982-83, \$39,000 in general funds and \$39,000 in matching federal funds shall be used for a demonstration project of a nursing home without walls concept. A report of the findings and the recommended legislation shall be submitted to the legislature twenty days prior to the convening of the regular session of 1983.”

(19) By repealing Section 43 in its entirety.

(20) By adding a new Section 43 to read:

“SECTION 43. Provided that of the general fund appropriation to the Other Regular Instruction Programs (EDN-106) \$15,216,730 and 527 positions in fiscal year 1982-83 shall be allotted for the School Priority Fund, which shall be used to augment regular instruction and other purposes which, at the schools' discretion, will benefit students and improve the instructional program beyond the level

normally permissible through only the regular allotment; provided further, that the funds and positions of the School Priority Fund are divided into three parts as follows: the Instructional Resource Augmentation (IRA) part which includes 527 positions and \$11,208,105, the Elementary Fund which includes \$2,156,550, and the Secondary Fund which includes \$1,852,075; provided further, that as used in this section, "enrollment" shall mean student enrollment in the regular schools with each regular student and each special student being counted as one; provided further, that the elementary and secondary funds shall be used to purchase supplies, textbooks, equipment and services, and the IRA positions shall be used to meet the unique needs of each school; provided further, that the superintendent shall allot the elementary and secondary funds to the districts based on elementary and secondary enrollments, respectively; provided further, that the district superintendents may withhold up to seven per cent of their district allotments of elementary and secondary funds for a reserve to be used for such purposes as unforeseen enrollment increases, compliance with comparability requirements, emergency school need for funds, and special school projects that directly benefit the students; provided further, that the district superintendent, after deducting the district reserve, shall allot the balance of the elementary and secondary funds to the elementary and secondary schools based on elementary and secondary enrollments, respectively; provided further, that in the allocation of 527 IRA positions to the district superintendents, the superintendent shall calculate each district's entitlement based on elementary enrollment and redeploy positions beginning September 1983, so that each district shall be provided with their full entitlement of positions by September 1985; provided further, that the district superintendents shall strive for equity in the allocation of the 482 teacher and 45 educational assistant IRA positions to the elementary schools using enrollment as the basic guide and without having to unduly fractionate individual positions; provided further, that the district superintendents may transfer funds in an equitable manner among schools in the event of significant shifts in school enrollment; provided further, that the principals shall consult with teachers and, to the extent practicable, with parents and students, to solicit their advice on the use of funds and positions; provided further, that while the schools shall be given latitude and discretion to determine their needs and priorities, and while the program shall be implemented without imposing undue amounts of paperwork and red tape on the schools, the superintendent shall still assure sound planning, control, and accountability by developing and implementing proper planning procedures and follow-up accountability reports; provided further, that the principals shall submit their plans for the use of the funds and positions to their district superintendents who shall review the plans for conformance with departmental policies and regulations."

(21) By adding a new Section to read:

"SECTION 44A. Provided that the department of education shall evaluate its present Hawaiian studies program; provided further, that the department shall develop a comprehensive program design to guide the implementation and expansion of the Hawaiian studies program under Other Regular Instruction Programs (EDN-106), especially in the secondary schools; provided further, that the department shall incorporate the evaluation and program design into a report which shall accompany any request for the program's expansion in the next fiscal biennium;

provided further, that the report shall be submitted twenty (20) days prior to the convening of the 1983 Regular Session of the Legislature.”

(22) By adding a new Section to read:

“SECTION 47A. Provided that of the general fund appropriation in fiscal year 1982-83 to Other Regular Instruction Programs (EDN-106), \$1,875,346 shall be allotted for the Early Intervention for School Success program.”

(23) By adding a new Section to read:

“SECTION 48A. Provided, that the board of education shall prepare a plan for reallocating school counselors to more appropriately reflect student enrollment and special student needs including socio-economic, academic, and personal adjustment factors; provided further, that such plan shall be implemented beginning in September, 1983; provided, further, that the board shall submit a report displaying the current placement of counselors in the schools relative to student enrollment and the aforementioned factors, and displaying the reallocated counselor placements at least twenty days prior to the convening of the 1983 Regular Session.”

(24) By adding a new Section to read:

“SECTION 50A. Provided that thirty-five positions authorized for fiscal year 1982-83 in Student Activities (EDN-207) shall be used to convert athletic directors from temporary to permanent status; provided further that more emphasis shall be placed on developing intramural sports and fitness activities and programs to allow a greater number of students to participate and benefit from athletics.”

(25) By adding a new Section to read:

“SECTION 53A. Provided that of the appropriation for fiscal year 1982-1983 to State Administration (EDN-303), \$157,613 shall be to finance the operations of the board of education; provided further that the board shall neither expend funds in excess of this amount nor transfer or authorize the transfer of funds from other education programs to pay for expenditures in excess of this amount, this practice being in direct contravention of legislative intent.”

(26) By adding a new Section to read:

“SECTION 54A. Provided that of the sum appropriated to the Public Libraries (EDN-407) for fiscal year 1982-83, \$57,500 shall be utilized for the conversion of temporary library assistant positions to five FTE (full-time equivalent) permanent, part-time library assistant positions.”

(27) By adding a new Section to read:

“SECTION 54B. Provided that the board of education shall develop funding criteria, evaluation requirements and standardized project expiration dates for all educational demonstration projects and special programs of a supportive nature; provided further, that the board of education shall submit a comprehensive report of its findings and recommendations on this matter to the legislature at least twenty (20) days prior to the convening of the 1983 Regular Session.”

(28) By adding a new Section to read:

“SECTION 56A. Provided that of the general-funded positions authorized for fiscal year 1982-83 to Instruction-UOH, Manoa (UOH 101), one full-time equivalent position shall be for a director of the geriatrics/gerontology training program in the school of medicine.”

(29) By adding a new Section to read:

“SECTION 56B. Provided that of the general-funded positions authorized

for fiscal year 1982-83 to Instruction-UOH, Manoa (UOH 101), one full-time equivalent position shall be for a geriatric educator/researcher in the school of nursing."

(30) By adding a new Section to read:

"SECTION 58A. Provided that of the general funds appropriated and position counts authorized in fiscal year 1982-83 to Student Services, UOH, Manoa (UOH 105), \$14,247 and a 1.00 FTE position count shall be used in the Women's Intercollegiate Athletics Program for a full-time, permanent women's softball coach, and \$14,247 and a 1.00 FTE position count shall be for a full-time permanent women's basketball coach."

(31) By adding a new Section to read:

"SECTION 58B. Provided that of the general fund appropriation to the Academic Support — University of Hawaii, Manoa (UOH 104) \$25,648 shall be used in fiscal year 1982-83 for a position and costs to accept and maintain the Jean Charlot Collection; provided further that the University develop a plan with the Bishop Museum for the care of the collection."

(32) By adding a new Section to read:

"SECTION 59A. Provided that of the general-funded positions authorized for fiscal year 1982-83 in Instruction-UOH, Hilo (UOH 211), seven full-time equivalent positions shall be used in the Hawaii Community College general education (humanities, social sciences, and natural sciences) program."

(33) By adding a new Section to read:

"SECTION 59B. Provided that of the general fund for fiscal year 1982-83 to the Academic Support — UOH, Hilo (UOH 214), \$182,508 shall be expended for the Continuing Education and Community Service program to provide services to outlying areas of the island of Hawaii; provided further, that the appropriated sum includes \$86,562 for five existing temporary positions, \$35,946 for travel and transportation expenses and \$60,000 for program support for rural communities on the island of Hawaii."

(34) By adding a new Section to read:

"SECTION 60A. Provided that of the general fund appropriation for fiscal year 1982-83 to the Academic Support, System-wide Support Program (UOH 901), \$66,825 shall be expended for critical short-term nursing training, particularly on the neighbor islands; provided further that the appropriated sum includes \$25,000 for one Assistant Professor (11 months) to teach employed nurses on neighbor islands courses in ICU/CCU critical care nursing; \$13,716 for summer overload of three faculty to supervise summer student employment in the Kona and Hilo Hospitals on the island of Hawaii; \$28,109 for travel and other costs associated with the above faculty; and provided further that the University shall present twenty (20) days prior to the convening of the 1983 Regular Session of the Legislature, a report describing the training programs implemented, data on students enrolled, and a progress report on the nursing training programs to address the critical need for nurses."

(35) By adding a new Section to read:

"SECTION 62A. Provided that the University shall study ways of improving the accounting system covering electricity costs including the development of means such as individual building meters to assign costs to the area or unit

of origin; the analysis of fuel adjustment costs; and such other improvements as may be necessary for such analytic purposes as identifying unusually high usages of electricity or unusual fluctuations in the patterns of usage or areas of potential savings; provided further, that the University shall present twenty (20) days prior to the convening of the 1983 Regular Session of the Legislature, a report describing the improved accounting system and including recommendations for any necessary legislative action to implement the improved system."

(36) By adding a new Section to read:

"SECTION 62B. Provided that in utilizing salary and other savings to pay for electricity costs that exceed the funds appropriated for such costs, the University shall emphasize using savings from non-instructional areas; provided further, that the University shall present twenty (20) days prior to the convening of the 1983 Regular Session of the legislature, a report describing the specific areas, if any, where funds are to be obtained in fiscal year 1982-83 to pay for all electricity costs exceeding the funds appropriated for such costs."

(37) By adding a new Section to read:

"SECTION 66A. Provided that of the general fund appropriation for fiscal year 1982-83 to Historical and Archaeological Places (LNR 801), \$72,500 shall be for staffing the North Kohala State Park Complex; provided further that the department of land and natural resources shall place a moratorium on the hiring of park personnel to fill vacant positions at the North Kohala State Park Complex because of the uncertainty of future funding for these positions; and provided further that no funds shall be transferred out from this program to any other LNR program."

(38) By adding a new Section to read:

"SECTION 67A. Provided that of the general fund appropriation for fiscal year 1982-83 to the Intake Service Center Program (SOC 394), \$63,202 shall be for the neighbor island Community Service Restitution Program and \$47,401 shall be for the Misdemeanant Pilot Program."

(39) By adding a new Section to read:

"SECTION 67B. Provided that of the general fund appropriation for fiscal year 1982-83 to the Intake Service Center Program (SOC 394), \$12,639 shall be used to acquire three computer terminals for the neighbor island Intake Service Centers to connect to Oahu's Intake Service Center and the PROMIS system."

(40) By adding a new Section to read:

"SECTION 68A. Provided that of the general fund appropriation for fiscal year 1982-83 to the Oahu Community Correctional Center Program (SOC 407), \$50,000 shall be used for the interfacing program to expand the educational and vocational program at Ho'omana School for services to be provided by Ho'omana School and for equipment and supplies necessary for the interfacing program, \$10,000 shall be used for the repair and maintenance of a closed circuit TV system for Ho'omana School, and \$50,000 shall be used for the expansion of work programs."

(41) By adding a new Section to read:

"SECTION 74A. Provided that of the general fund appropriation for fiscal year 1982-83 to the Office of the Governor (GOV 100), \$50,000 shall be used for planning and promotion of Hawaii's Statehood Silver Jubilee; provided further



that the appropriate executive agencies shall provide the necessary staff services to the 1984 Hawaii Statehood Silver Jubilee Committee.”

(42) By adding a new Section to read:

“SECTION 78A. Provided that of the appropriations to Program Planning, Analysis, and Budgeting (BUF 101), \$87,062 in general funds, \$38,857 in special funds, \$5,989 in federal funds, and \$4,179 in other funds for fiscal year 1982-83 shall be for the Excluded Managerial Compensation Plan; provided further, that the sum appropriated shall be used to adjust the compensation plan only to the extent as agreed to by the conference of personnel directors and the administrative director of the courts.”

(43) By adding a new Section to read:

“SECTION 79A. Provided that of the general fund appropriation for fiscal year 1982-83 to Electronic Data Processing Services (BUF 131), \$408,726 shall be for services provided to the legislative reference bureau by the electronic data processing division; provided further, that the electronic data processing division shall provide all of the electronic data processing services required by the legislative reference bureau.”

(44) By adding a new Section to read:

“SECTION 87A. Provided that of the general fund appropriation to the Legal Services program (ATG 100), \$105,158 for fiscal year 1982-83 shall be used to raise the salaries for all deputies attorney general paid by general funds and \$63,000 for fiscal year 1982-83 shall be used to raise the salaries for all deputies attorney general paid by interdepartmental transfer funds. Provided further that this amount of \$168,158 shall be used in conjunction with the 7% adjustment appropriations for all deputies attorney general for fiscal year 1982-83.”

(45) By adding a new Section to read:

“SECTION 88A. Provided that of the general fund appropriation for fiscal year 1982-83 to Statewide Plan and Coordination (PED 103), \$100,000 shall be used for the continuation of the Economic Planning Information System (EPIS); provided further that the department of planning and economic development shall develop a plan for providing useful information to all users of EPIS and for making EPIS accessible to more users; and provided further that the department shall submit such plan to the 1983 regular session of the legislature.”

(46) By adding a new Section to read:

“SECTION 88B. Provided that of the amounts appropriated for fiscal year 1982-83 to Statewide Plan and Coordination (PED 103), \$112,000 in general funds and \$448,000 in federal funds shall be used for the Coastal Zone Management Program; provided further, that \$25,000 shall be for the department of land and natural resources to carry out its functions under this program; and, provided further, that not less than \$351,528 shall be allocated to the counties in the following manner for carrying out the special management area permit procedures: \$115,929 for the County of Hawaii; \$76,539 for the County of Kauai; \$66,069 for the County of Maui; and \$70,795 for the City and County of Honolulu.”

(47) By adding a new Section to read:

“SECTION 88C. Provided that of the general fund appropriation for fiscal year 1982-83 to Statewide Plan and Coordination (PED 103), \$4,870 shall be used to enable the land use commission members and its staff to attend conferences on

the mainland; provided further, that land use commission members whose terms shall expire within six months or less shall not be permitted to travel using these funds.”

(48) By adding a new Section to read:

“SECTION 88D. Provided that of the appropriation to Retirement (BUF 141) for fiscal year 1982-83, \$17,316 in general funds and \$6,084 in county funds, or so much thereof as may be necessary, shall be used to reimburse the office of the attorney general for services provided in retirement disability cases.”

SECTION 5. Part IV of Act 1, First Special Session Laws of Hawaii, 1981, is amended:

(1) By amending Section 92 to read:

“SECTION 92. **Capital improvement projects authorized.** The sums of money appropriated in Part II of this Act for capital investment shall be expended for the projects listed below. The appropriations accounting by the Department of Accounting and General Services shall be made based on the projects listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, plans, design, construction and equipment purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)”

APPROPRIATIONS (\$1,000's)

M	M	Total
FY 0	FY 0	Biennium 0
1981-82 F	1982-83 F	1981-83 F

Cap. Proj. No. Exp. Program ID Agv.

Item No.

Program and Capital Projects

A. ECONOMIC DEVELOPMENT

TRADE AND FINANCE

Foreign Trade Zone Services

1A. Renovation of Pier 2 Fac. for Relocation and Expansion of Foreign-Trade Zone. FTZ-1 PED 107

Renovation of structures and grounds at Pier 2 to provide improvements for the relocation of FTZ No. 9 from Pier 39 and expansion of zone activities including manufacturing, transshipment, assembly, storage, and warehousing of goods and merchandise. Improvements include offices, exhibit rooms, warehouse and manufacturing areas, security fences, parking areas, utilities and other zone requirements.

Plans		50	50
Design		100	100
Construction		1,160	1,160
Equipment		60	60
Total Funding			
	C	C	C
	D	D	D
		1,370D	1,370D

TOURISM

1. Waikiki Improvements, Oahu TOUR01 PED 113

Plans, land acquisition, design and construction of improvements and other public facilities for the general improvements of the Waikiki area, provided that 20 percent of state funds allotted for this purpose shall be first matched by funds of the city and county of Honolulu; and provided further, that funds not expended in a cost element may be transferred for use in another cost element.



2A.	DOA Facility, Lihue Kauai Design and construct a facility to house DOA programs on Kauai.	A-K4	AGR 192	66 830 30 926C	66 830 30 926C
				C	
2B.	DOA Facility, Hilo Hawaii Design and construct a facility to house DOA programs in Hilo, Hawaii.	A-H19	AGR 192	115 115C	115 115C
				C	
3.	Renovation of HDI Facilities, Ala Moana Oahu Additional office space and other renovations to include decontamination, to the present Hawaii development irradiation building located on Ilalo Street, Ala Moana, Oahu.	A-012	AGR192	272 272C N	272 272C N
				272 272C N	
3A.	Additions and Renovations, DOA King Street, Honolulu, Hi. Additions and renovations to main office com- plex, department of agriculture, King and Keau- moku Streets, Honolulu, Hawaii.	A-017	AGR 192	21 504 525C	21 504 525C
				C	
3B.	Maui Office-Complex Facility, Maui Design and construction for an office-complex	LS0201	AGR192	C	



Proj rec fed aid fin/reimb.

Plans	75	575	650
Design		250	250
Construction		900	900
Equipment	504	725	1,229
Total Funding	290C	1,225C	1,515C
	289N	1,225N	1,514N
	R	R	R

6. Alternate Energy Demonstration And Commercialization Projects

Plans, design, and construction of facilities to demonstrate feasibility of alternate energy resources in Hawaii and for facilities required in the commercialization of alternate energy resources found to be economically feasible. Funds not needed for a cost element may be transferred and used for a different cost element. Funds may be used to match non-state funds.

Plans	100	50	150
Land	1	1	2
Design	130	100	230
Construction	769	749	1,518
Equipment	200	100	300
Total Funding	1,200C	1,000C	2,200C

6A. Natural Energy Laboratory of Hawaii — Water NELH03 PED 120

Quality Laboratory Expansion Design and construction of facilities at the NELH Ke-Ahole Point, Hawaii including office, laboratory and storage space, equipment, and other facilities for support of research projects.

Design		5	5
Construction		55	55
Equipment		100	100
Total Funding	C	160C	160C

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					FY 1981-82 F	FY 1982-83 F	M	Total M Biennium 1981-83 F
7.	<p><b>WATER DEVELOPMENT &amp; IRRIGATION SERVICES</b></p> <p>Water Sources Investigation, and Development, Hawaii</p> <p>Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.</p> <p>Plans Land Design Construction Total Funding</p>	G25	LNR 141					
					3	3	6	
					2	2	4	
					25	25	50	
					370	320	690	
				LNR	400C	350C	750C	
8.	<p>Water Sources Investigation, and Development, Oahu</p> <p>Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.</p> <p>Plans Land Design Construction Total Funding</p>	G43	LNR 141					
					50	50	100	
					50	50	100	
					80	80	160	
					820	420	1,240	
				LNR	1,000C	600C	1,600C	
9.	<p>Water Sources Investigation, and Development, Kauai</p> <p>Engineering and economic studies, geologic and</p>	G44	LNR 141					



hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.

Plans	15	15	30
Land	10	10	20
Design	25	25	50
Construction	350	200	550
Total Funding	400C	250C	650C

LNR

10. Water Resources Development for Agriculture G45 LNR 141

Statewide  
Planning ACQ design and construc of water facil  
for agriculture, including water development for  
aquaculture.

Plans	10	1	11
Land	3	1	4
Design	50	1	51
Construction	1,162	2,242	3,404
Total Funding	1,225C	2,245C	3,470C

LNR

11. Water Sources Investigation, and Development, Maui G46 LNR141

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.

Plans	15	15	30
Land	10	10	20
Design	25	25	50
Construction	350	200	550
Total Funding	400C	250C	650C

LNR

11A. Renovation of Upper Hamakua Ditch, Waimea G86 LNR 141

Irrigation System, South Kohala, Hawaii

Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Program ID	APPROPRIATIONS (\$1,000's)					
				FY 0 1981-82 F	M	FY 0 1982-83 F	M	Total Biennium 0 1981-83 F	
	Design and construction for the renovation of the upper Hamakua Ditch and intakes including the construction of an access road.								
	Land								
	Design					25		25	
	Construction					225		225	
	Total Funding		LNR	C		250C		250C	

**C. TRANSPORTATION FACILITIES**

- Air Transportation Facilities and Svcs
- HIA Facilities & Svcs
  
- 1. Auto Parking Facilities  
 At Honolulu International Airport  
 Prepare site, install all civil utilities and electrical utilities underground, and construct multi-level parking structure entrance and exit roadways and exit plaza and appurtenances.  
 Design  
 Construction  
 Total Funding
 

						2,100		2,100
							B	B
							E	2,100E
  
- 2. Diamond Head Extension to Overseas  
 Terminal  
 At HIA  
 Construct Diamond Head extension to overseas terminal bldg and appurtenances, ticket & waiting lobbies, enplaning-deplaning roadways, relocate tenants in existing area, furniture landscaping, renovate mechanical and electrical systems in existing terminal areas, offices, baggage claim areas, extend Wiki bus road system,
 


and other miscellaneous improvements.						
Design		2,100				2,100
Construction		16,000			8,000	24,000
Equipment		1,900				1,900
Total Funding		6,600B			8,000B	14,600B
		13,400E			E	13,400E
			TRN			
3.	Overseas Hardstands and Gates at Honolulu International Airport			A08	TRN 102	
	Design and construct new hardstands and alterations to existing holding rooms, air cargo and other misc improvements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
	Design	1,400				1,400
	Construction	1,400B			B	1,400B
	Total Funding	E			E	E
		N			N	N
			TRN			
3A.	Access Roadways at HIA			A10	TRN 102	
	Construct the ramps and roadway connections from the H-1 freeway and surface roads to overseas & interisland terminals and parking facilities. Alterations to the internal roadway system, and other miscellaneous adjustments and improvements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
	Design					835
	Construction				4,165	4,165
	Total Funding				B	B
					E	5,000E
					N	N
			TRN			
4.	New Inter-Island Terminal Complex at Honolulu International Airport			A11	TRN 102	
	Construct new passenger terminal, land acquisition, aircraft taxiways and parking apron, connecting roadways and other miscellaneous improvements, relocate existing interisland main-					



Total Funding 300B 300B B 300B

7. Service Court Development at HIA A27 TRN 102

Design and install roads, utilities, landscaping, and other improvements for service court areas.

Design 140  
 Construction 300  
 Total Funding 440E

8. Expansion and Alterations to Baseyard A36 TRN 102

Facilities at Honolulu International Airport  
 Design and construct expansion and renovations to maintenance baseyard facility including storage area, paint shop, exterior doors, and other related improvements.

Design 50  
 Construction 150  
 Total Funding 200E

9. Improvements to Overseas Terminal Facilities A37 TRN 102

at Honolulu International Airport  
 Design and installation of 400 HZ, loading bridges, integrated system for energy management, flight information, safety & security systems. Projects to improve energy efficiency, operational efficiency, and other miscellaneous improvements.

Design 500  
 Construction 3,000  
 Total Funding 3,500E

GENERAL AVIATION FACILITIES AND SERVICES

10A. Oahu General Aviation Airport-Dillingham A72 TRN 104

Construct general aviation airport including

500  
 2,000  
 2,000B  
 3,500E

Item No.	Cap. Proj. No.	Program ID	Exp. Ag.	APPROPRIATIONS (\$1,000's)			
				FY 0 1981-82 F	M	FY 0 1982-83 F	Total Biennium 0 1981-83 F
11.	Program and Capital Projects runway, taxiway, aircraft parking areas, T hangars, utilities, roads, signs, and other miscellaneous improvements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.	General Lyman Field Facilities & Services	TRN			4,000	4,000
						1,500	1,500
						4,000E	4,000E
						1,500N	1,500N
11.	General Lyman Field Terminal Improvements Design and construct improvements to terminal emergency power system including ductlines and control to the airfield lights.	B11	TRN 111				
						60	60
						600	600
12.	Keahole Airport Facilities and services Terminal Improvements at Keahole Airport Design and construct modifications to terminal including new concession area, airport administrative area, emergency generator and duct lines, access roadways, maintenance baseyard, alterations to improve operational & energy efficiency and other miscellaneous improvements.	C03	TRN 114				
						600E	600E
						600E	600E
12.	Design Construction Total Funding	TRN	TRN				
						280	280
						460	1,960
12.	Total Funding	TRN	TRN				
						1,500E	2,240E

13.	<p>Airfield Improvements at Keahole Airport Expand aircraft apron, landscaping, and other appurtenances. This project is deemed necessary to qualify for federal-aid financing or reim- bursement.</p>	C05	TRN 114	<p>2,000 D 2,000E N</p>	<p>2,000 D 2,000E N</p>
				TRN	
14.	<p>Improvements to General Aviation Area at Keahole Airport Construct T-hangars, aircraft parking apron and appurtenances.</p>	C06	TRN 114	<p>50 400 450E</p>	<p>50 400 450E</p>
				TRN	E
15.	<p>Air Cargo Facilities at Keahole Airport Develop facilities for air cargo including utility systems, roadways, parking, terminal, and other appurtenances.</p>	C07	TRN 114	<p>60 440 500E</p>	<p>60 440 500E</p>
				TRN	E
16.	<p>Kahului Airport Facilities and Services Kahului Airport Terminal Expansion Construct additions and alterations to passenger and cargo terminal buildings, parking lot, road- ways and other misc. improvements. Aircraft parking positions, landscaping, furniture and other miscellaneous equipment. This project is deemed necessary to qualify for federal-aid financing or reimbursement.</p>	D04	TRN 131		





	Total Funding		TRN	500B E	300B E	800B E
18A.	Land Acquisition and Airfield Improvements at Various Statewide Airports	F06	TRN 195			
	Acquisition and airfield improvements at various statewide airports.					
	Land				6,000	6,000B
	Total Funding		TRN	B	6,000B	
19.	Improvements for the Handicapped at Various Statewide Airports	F07	TRN 195			
	Miscellaneous improvements to various statewide airports to accommodate the handicapped. This project is deemed necessary to qualify for federal-aid financing or reimbursement.					
	Design			425		425
	Construction				1,250	1,250
	Total Funding		TRN	425E N	1,050E 200N	1,475E 200N
20.	Airport Certification, Safety, Security, and Compliance Statewide	F08	TRN 195			
	Miscellaneous improvements to various airports to comply with certification, safety, security, and compliance requirements.					
	Design			75		75
	Construction				750	750
	Total Funding		TRN	75E	750E	825E
	<b>WATER TRANSPORTATION FACILITIES AND SERVICES</b>					
	Honolulu Harbor Facilities and Services					
21.	Improv to Fac Piers 19-34 at Hon. Har	J02	TRN 301			
	Improvement of roadways, sheds, parking, lighting, utilities and other facilities to the Pier 19 to 34 area including reconstruction of Pier 20 fender system, paving, drainage, and lighting improve-					

Item No.	Cap. Proj. No.	Program and Capital Projects	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					M FY 0 1981-82 F	M FY 0 1982-83 F	M Biennium 0 1981-83 F	Total M
		Program and Capital Projects ments at Pier 20 backup area.			86			86
		Design						
		Construction			86B	828B		828
		Total Funding		TRN	E	E		914B
22.	J03	Misc Improv to Exist Pier Fac at Hon Har Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, paving, and other facilities.	TRN 301					
		Design			9	10		19
		Construction			66	70		136
		Total Funding		TRN	75B	80B		155B
23.	J04	Improvements to Fort Armstrong Facilities Reconstruction of Fendering System at Piers 1 and 2.	TRN 301					
		Design			80			80
		Construction			732			732
		Total Funding		TRN	812B	B	E	812B
					E	E		E
24.	J05	Waterfront Redevelopment, Hon Har Planning for redevelopment of existing facilities between Piers 2 to 18.	TRN 301					
		Plans			50			50
		Design						
		Construction						
		Total Funding		TRN	50B	B	E	50B
					E	E		E
25.	J06	Container Facilities at Sand Island, Oahu Expansion and development of container facil-	TRN 301					

ities at Sand Island, including piers, sheds, yard areas and other improvements.

Design Construction					150
Total Funding	TRN			D	3,385
				E	3,535E

26. Development of Piers 41-42, Honolulu Construction of pier, yard, utilities and other related improvements.

Design Construction	J19	TRN 301			205
Total Funding			205B	205B	205B
			E	E	E

27. Improvements to Piers 39-40 Complex, Hon Har Shed renovation, pier and yard improvements at Piers 39-40.

Design Construction	J20	TRN 301			180
Total Funding			75	4,000	6,115
			B	75B	75B
			E	4,000E	6,220E

28. Commercial Fisheries Facility Development Construction of pier facilities at Piers 16 and 37 and other improvements.

Design Construction	J25	TRN 301			75
Total Funding				C	2,575
					2,650C

29. Gateway Beautification Project Landscaping, sprinkler systems, utility relocations, and other related improvements including upgrading and painting of harbor facilities along the highway.

Design Construction	J26	TRN 301			15
					75

APPROPRIATIONS (\$1,000's)

M	M	Total M
FY 0	FY 0	Biennium 0
1981-82 F	1982-83 F	1981-83 F
90B	B	90B

Cap. Proj. No. Program ID Exp. Agv. TRN

Program and Capital Projects

Total Funding

Barbers Point Harbor Facilities and Services  
 Barbers Pt Deep Draft Harbor Improvements  
 Oah  
 Incremental development of Barber's Point Harbor including dredging, piers, shed, yard areas & other improvements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.  
 Plans

J11 TRN 303

75,300	4,440	79,740
B	B	B
D	D	D
1,200E	4,440E	5,640E
74,100N	N	74,100N

TRN

Kewalo Basin Facilities and Services

Kewalo Basin Improvements, Oahu  
 Improvements at Kewalo Basin including removal of existing catwalks, construction of new catwalks, water circulation structure, fill, revetment, utilities, paving, lighting, and other shore-side improvements.

J12 TRN 305

400	400C	400
C	400C	400C

TRN

Hilo Harbor Facilities and Services

Container Facilities at Hilo Harbor, Hawaii  
 Design and construction of additional container

L06 TRN 311

Item No.

30.

30A.

31.



Item No.	Cap. Proj. No.	Program and Capital Projects	Program ID	Exp. Agv.	APPROPRIATIONS (\$1,000's)			
					M FY 0 1981-82 F	M FY 0 1982-83 F	M Biennium 0 1981-83 F	Total
		Design and construction of segmented pier on the west side of Pier 2 at Nawiliwili Harbor.			70	620	70	620
		Construction			70B	620B	E	690B
		Total Funding			E	E	E	E
36.	101	Water Transportation Fac & Svcs Support Statewide Harbor Planning	TRN 395		100			100
		Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands.			100B			100B
		Plans						
		Total Funding				B		
37.	103	Misc. Imprv. to Fac. at Neighbor Is. Ports	TRN 395					
		Improvements to yard areas, sheds, piers, utilities, water areas and other facilities.						
		Design			8	8		16
		Construction			42	42		84
		Total Funding			50B	50B		100B
		LAND TRANSPORTATION FACILITIES AND SERVICES						
		Oahu Highways and Services						
38.	R12	Interstate Route H-1, East of Halawa I.C. to Middle Street Separation, Oahu	TRN 501					
		Incremental construction of eight freeway lanes, including Pearl Harbor, Airport and Keehi interchanges. This project is deemed necessary to qualify for federal-aid financing or reimbursement.						
		Land						100

Design 100  
 Construction 82,784 B  
 Total Funding 47,034 C  
 35,750 B  
 4,494D C  
 31,456J 10,848D  
 72,136J

TRN

39. Interstate H-1, Improvements to the Pearl  
 City Off Ramp, Oahu R14 TRN 501  
 Extend deceleration lane, construct additional  
 lane on the off ramp and on Moanalua Road  
 between the ramp and Hoomalu Street. This  
 project is deemed necessary to qualify for federal-  
 aid financing or reimbursement.

Land

Design 1,235  
 Construction 123D  
 Total Funding 1,112J D  
 1,112J J

TRN

40. Interstate Route H-3, Junction at H-1  
 to Kaneohe Marine Corps Air Station, Oahu R30 TRN 501  
 Incremental construction of divided highway  
 from junction at H-1 to Kaneohe Marine Corps  
 Air Station. This project is deemed necessary to  
 qualify for federal-aid financing or reimburse-  
 ment.

Land

Design 3,357  
 Construction 9,310  
 Total Funding 20,788 B  
 5,026D  
 28,429J

TRN

41. Pali Highway Improvement, Waokanaka to  
 Vineyard Boulevard, Oahu S51 TRN 501  
 Construction of additional traffic signals. This  
 project is deemed necessary to qualify for federal-  
 aid financing or reimbursement.

Item No.	Cap. Proj. No.	Program and Capital Projects	Exp. Program ID	APPROPRIATIONS (\$1,000's)					Total Biennium 1981-83
				M 1981-82	F 1982-83	M 1982-83	O 1982-83	F 1981-83	
		aid financing or reimbursement.							
		Design		100				100	
		Construction	TRN	C		C		C	
		Total Funding		100D		D		100D	
				K		K		K	
42.		Fort Weaver Road Realignment and Widening, Ewa, Oahu	TRN 501						
		Realignment and widening of Fort Weaver Road including improvements to Kunia Road to provide for a connection to H-1 and improvements of existing two-lane highway to a divided highway, and for the extension of the Renton Road-Hanakahahi Street section. This project is deemed necessary to qualify for federal-aid financing or reimbursement.							
		Land							
		Design		1,662		B		1,662	B
		Construction	TRN	C		C		C	
		Total Funding		512D		D		512D	
				1,150M		M		1,150M	
43.		Honolulu Airport Gateway Beautification, Nimitz Highway & Ala Moana Blvd., Oahu	TRN 501						
		Landscaping and sprinkler systems on Nimitz Highway and Ala Moana Blvd. from the vicinity of Sand Island Access Road to the vicinity of Ala Wai Canal.							
		Design		62				62	
		Construction		138				138	





Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Program ID Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1981-83 F
				M FY 1981-82 F	M FY 1982-83 F	M FY 1981-83 F	
46.	federal-aid financing or reimbursement.						
	Design Construction						
	Total Funding		TRN	1,330 332D 998K	D K	1,330 332D 998K	
46A.	Likeline Highway Improvement, Kam IV Road to Kalih Street, Oahu.	S93	TRN 501				
	Roadway improvements, additional lane, pedestrian footpath, and traffic signal including widening of Kalih Stream bridge and removal of pedestrian footbridge at Kalih Stream bridge. This project is deemed necessary to qualify for federal-aid financing or reimbursement.						
	Design Construction			1,800 450D 1,350K	D K	1,800 450D 1,350K	
46B.	Interstate Route H-1, Kapiolani Interchange On-Ramp, Honolulu, Oahu	HI-K	TRN 501				
	Construction of on-ramp at Kapiolani Interchange.						
	Design Construction			1,500 I,500B	B	1,500 I,500B	
46B.	Hawaii Highways and Services						
	Hilo Waterfront Road, Vicinity of Wailuku River to Hilo Wharf, South Hilo, Hawaii.	T02	TRN 511				
	Improvement of highway from vicinity of Wailuku River to Hilo Wharf including replacement of Wailoa River Bridge. This project is deemed						

necessary to qualify for federal-aid financing or reimbursement.

Plans				218	218
Land					
Design					
Construction					
Total Funding					

47. Kuakini Highway, Hawaii TRN 511

Realignment of present two-lane highway to meet the Kailua-Kawaihae Road and its intersection with Palani Road.

Land				2,126	3,257
Design					
Construction				6,500	6,500
Total Funding					

48. Hawaii Belt Road: Replacement of 5 Bridges, Hamakua, Hawaii. TRN 511

Hawaii Belt Road improvement, Hamakua, Hawaii-Replace existing wooden bridges at Kanehe, Kaholalele, Paaulo School and east Paaulo Streams and concrete bridge at Keala-kaha Stream. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Land				37	37
Design				2,961	6,255
Construction					
Total Funding					

Item No.	Cap. Proj. No.	Program ID	Exp. Agv.	APPROPRIATIONS (\$1,000's)				Total
				M FY 0 1981-82 F	M FY 0 1982-83 F	M FY 0 1983-84 F	M FY 0 1984-85 F	
49.	T77	TRN 511			14	13	27	
					280	260	540	
					294B	273B	567B	
					D	D	D	
<b>Program and Capital Projects</b>								
				Guardrail and Shoulder Improvements, at Various Locations on State Highways on Hawaii				
				Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highway on Hawaii.				
				Design				
				Construction				
				Total Funding				
<b>Maui Highways and Services</b>								
49A.	V41	TRN 531						
<b>Maui Highways and Services</b>								
				Haleakala Highway-Airport to Kula Highway, Makawao, Maui.				
				Widen, realign and reconstruct highway from Kahului Airport junction on Hana Highway to Kula Highway junction at Pukalani. This project is deemed necessary to qualify for federal-aid financing or reimbursement.				
				Land				
				Design				
				Construction				
				Total Funding				
					400		400	
					B	B	B	
					C	C	C	
					D	D	400D	
					K	K	K	
<b>Piihoni Highway, Kihei to Ulupalakua, Maui.</b>								
50.	V43	TRN 531						
<b>Piihoni Highway, Kihei to Ulupalakua, Maui.</b>								
				Incremental construction of highway from Kihei to Ulupalakua. This project is deemed necessary				

to qualify for federal-aid financing or reimbursement.

Land	1,986	
Design		
Construction		
Total Funding	2,621	TRN
	B	B
	C	C
	1,224D	D
	3,383K	K

	1,986	
	2,621	
	B	B
	C	C
	1,224D	D
	3,383K	K

51. Hana Highway-Huelo to Hana, Maui.

Repair and replacement of bridges and culverts, safety improvements and resurfacing of Hana Highway from Huelo to Hana.

Design	60	
Construction	580	
Total Funding	640D	TRN

52. Guardrail Traffic Signals and Shoulder Improvements on State Highways on Maui.

Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of traffic signals, metal guardrails and modernization of existing guardrails at various locations on State highways on Maui.

Design	35	
Construction	350	
Total Funding	385B	TRN
	70	35
	700	350
	770B	385B
	D	D

Molokai Highways and Services

53. Guardrail and Shoulder Improvements on State Highways on Molokai.

Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations

Item No.	Cap. Proj. No.	Program ID	Exp. Agency	APPROPRIATIONS (\$1,000's)			
				FY 0 1981-82 F	M	FY 0 1982-83 F	Total M Biennium 1981-83 F
54.	Program and Capital Projects on state highways on Molokai.	TRN	25			25	
						250	250
						250B	275B
				D			D
54.	Lanai Highways and Services Guardrail and Shoulder Improvements at Various Locations on State Highways on Lanai. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrail and modernization of existing guardrail at various locations on state highways on Lanai.	W58 TRN 551	15			15	
						150	150
						150B	165B
				D			D
54A.	Kauai Highways and Services Hanamaulu-Ahukini Cutoff Rd, Kauai Land acquisition, plans & construction of Hwy to relieve congestion thru Lihue town area. This project is deemed necessary to qualify for federal-aid financing or reimbursement.	X43 TRN 561	15			15	
						150	150
						150B	165B
				D			D
						9,800	9,800
				B		B	B
				D		2,940D	2,940D
				K		6,860K	6,860K

55.	Guardrail and Shoulder Improvements at Various Locations on State Highways on Kauai. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving & installation of metal guardrails & modernization of existing guardrails at various locations on state highways on Kauai.	X51	TRN 561	<p>10 150 160B</p> <p>D</p> <p>25 222 247B</p> <p>D</p> <p>35 372 407B</p> <p>D</p>
56.	Land Transportation Fac & Svcs Support Construction of Wheelchair Ramps-Statewide. Construction of wheelchair ramps at various locations along state highways, statewide.	X91	TRN 595	<p>5 45 50B</p> <p>5 45 50B</p> <p>10 90 100B</p>
57.	Miscellaneous Improvements to Existing Intersections & Highway Facilities, Statewide Miscellaneous improvements to existing intersec-tions and highway facilities necessary for traffic safety. This project is deemed necessary to qualify for federal-aid financing or reimbursement.	X98	TRN 595	<p>100 235 1,815</p> <p>100 235 1,815</p> <p>625D 1,525N</p> <p>200 470 3,630 1,250D 3,050N</p>
58.	Highway Planning, Statewide Road use, road life, economic studies, research and advance planning of federal-aid and non-federal-highway projects. This project is deemed	X99	TRN 595	

Item No.

**Program and Capital Projects**

necessary to qualify for federal-aid financing or reimbursement.

Plans

Total Funding

Cap. Proj. No.

Exp. Program ID Agy.

M FY 0 1981-82 F

M FY 0 1982-83 F

M Total M Biennium 0 1981-83 F

1,690	1,888	3,578
670B	766B	1,436B
D	D	D
1,020N	1,122N	2,142N

TRN

100	28	128
200	114	314
3,620	2,377	5,997
3,920C	2,519C	6,439C

HTH

5	5
30	30
30	30

**D. ENVIRONMENTAL PROTECTION**

**POLLUTION CONTROL**

Solids, Liquids, Gases, and Noise

Sewerage Construction Grants

Grants to county or state agencies for eligible water pollution control facilities conforming with the state WPC Plan authorized by Act 187/79. State may make grants to finance eligible planning, design and/ or construction costs of projects receiving federal grants. Unexpended balances in item D1 Act 214/79; item D1 Act 300/80 shall be used for this purpose. (To be expended by DOH)

Plans

Design

Construction

Total Funding

HTH 840

840001

**PRESERVATION AND ENHANCEMENT**

Water Resources

Groundwater Monitor Wells — Statewide

Construction of monitor wells including measuring apparatus and appurtenances.

Plans

Land

Design

LNR 404

G55



Construction	515			
Equipment	20			
Total Funding	600C			

LNR C

**E. HEALTH**

**PHYSICAL HEALTH**

Communicable Diseases

Leprosy

1. Install Filtration System and Other Related Improvements to Kalaupapa Water System Construct and install a filtration system and make other related improvements to enable the Kalaupapa Water System to meet turbidity and bacteriological maximum contaminant level requirements under P.L. 93-523, Act 66, SLH 1977 and drinking water regulations of the Department of Health.

111003 HTH 111

Design	10			
Construction	90			
Total Funding	100C			

AGS C

1A. Upgrade or Provide New Water Supply System for Kalaupapa Settlement Plans, design, and construction of a new water supply system or upgrade existing system for Kalaupapa Settlement to meet compliance standards with State and Federal safe drinking water acts. Act 1 SPSLH 1981 Item E1 relating to improvements to the existing water system may be used for this purpose.

111004 HTH 111

Plans	10			
Design	5			
Construction	155			
Equipment	30			
Total Funding	200C			

AGS C

Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Program ID	APPROPRIATIONS (\$1,000's)				Total Biennium 1981-83 F
				FY 1981-82 F	FY 1982-83 F	M	M	
2.	Health Care Services Recompression (Hyperbaric) Treatment Center Plans and construction for the development of a "recompression (hyperbaric) treatment center" for diving accident victims.	801007	HTH 801					
	Plans			25				25
	Construction			175				175
	Total Funding			200C		C		200C
	Hospital Care Hilo Hospital							
2A.	New Acute Care Facility in Hilo To design and construct new acute care hospital.	C28	HTH 211					
	Plans							
	Design				130			130
	Construction				1			1
	Equipment				1,999			1,999
	Totaling Funding				2,130C			2,130C
3.	Hilo Hospital Complex—Complex Master Plan Develop a master plan complex which includes the utilization of the adjacent state land.	211002	HTH 211					
	Plans							
	Total Funding			125				125
				125C		C		125C
4.	Ka'u Hospital OT PT Expansion & Shell Basement for Pub Hlth Home Hlth Office Maint & Storage Area, Kau HP Construction of OT-PT expansion & shell	213001	HTH 213					

basement.					
Design				250	
Construction				250C	
Total Funding					C
Kohala Hospital					
5.	Kohala Hospital—Renovation of Therapy Bathroom.	214001	HTH 214		
	Renovate, expand and modernize existing therapy bathroom. Remove existing wall of adjoining linen room and utilize entire floor area as therapy bathroom. 256 sq. ft.; ceramic tile flooring to 112 sq. ft. expanded area; relocation of pharmacy.				
Design				4	4
Construction				46	46
Total Funding				50C	C
AGS					
6.	Kohala Hospital—Relocation of Linen Room. Relocation due to adjoining therapy bathroom being expanded into entire area of existing linen room. 195 sq. ft. floor area; hollow block exterior wall; cement slab floor.	214002	HTH 214		
Design				3	3
Construction				10	10
Total Funding				13C	C
AGS					
7.	Kohala Hospital—Extension of Business Office	214003	HTH 214		
	To allow for larger working area in business office. Additional 200 sq. ft. floor space; cement slab floor; hollow block exterior wall; acoustic ceiling (fire resistant galvanized roofing; jalousie window with plate glass; double action door).				
Design				4	4
Construction				40	40
Total Funding				44C	C
AGS					

Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Program ID	Agy.	APPROPRIATIONS (\$1,000's)			
					M FY 0 1981-82 F	M FY 0 1982-83 F	M FY 0 1981-83 F	M Total Biennium 0 1981-83 F
8.	Samuel Mahelona Memorial Hospital Acute Psychiatric Care Area The existing acute psychiatric area of SMMH does not conform to any standards this project will provide 9 conforming acute psychiatric beds for the entire island of Kauai.	232001	HTH 232					
	Design							
	Construction				566		566	566
	Total Funding			AGS	566C		566C	566C
	<b>MENTAL HEALTH</b>							
9.	Hawaii State Hospital Oahu New or modification of facilities of Hawaii State Hospital to meet all codes and standards required of hospitals by code enforcing agencies and to meet program needs. Also construct covered walkways interconnecting the structures.	430001	HTH 430					
	Plans							
	Design							
	Construction				338		338	338
	Total Funding			AGS	338C		338C	338C
	<b>MENTAL RETARDATION</b>							
9A.	Community Based Services for MR Agricultural Community Center at Paalaa Uka, Oahu. Planning, design, site development and construction of an agricultural community center on Oahu to be operated and administered by Opportunities for the Retarded, Inc.	820010	HTH 501					

Construction 750  
 Total Funding 750C

AGS C

**OVERALL PROGRAM SUPPORT**

General Administration 907002 HTH 907  
 Lahaina Health Center

Construct new health center facility to accommodate various health related programs to serve the needs of the community. Also construct parking facilities and driveways to comply with code requirements.

Design 1,372  
 Construction 100  
 Equipment 100  
 Total Funding 1,472C

AGS C

**F. SOCIAL SERVICES**

**ASSURED STANDARD OF LIVING**

Housing Assistance  
 Rental Housing Augmentation and Assistance

1. Electrical Modernization at Palolo Homes I An II  
 Partial rewiring of electrical system installing new light fixtures upgrading existing electrical devices and providing current interrupter.

KH8101 SOC 220

Construction 350  
 Total Funding 350C

SOC C

2. Installation of Cathodic Protection and Replacement of Piping at Palolo Homes II  
 Replacing existing water and gas lines and installing cathodic protection to the new lines.

KH8102 SOC 220

Design 15  
 Construction 350  
 Total Funding 365C

SOC C

APPROPRIATIONS (\$1,000's)

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total M Biennium 1981-83 F
					FY 1981-82 F	FY 1982-83 F	M O	
3.	Installation of Heater Enclosures at Palolo Homes I and II Replacing existing wood sidings at laundry area with reinforced concrete masonry unit walls and installing new heater room doors. Construction Total Funding	KH8103	SOC 220	SOC	240 240C	C	240 240C	
4.	Electrical Modernization at Lokahi Installing new light fixtures additional outlets partial rewiring and ground fault interrupters. Construction Total Funding	KH8104	SOC 220	SOC	50 50C	C	50 50C	
5.	Installation of Security System at Pumechana Installing security walls and enterphone system. Design Construction Total Funding	KH8105	SOC 220	SOC	5 50 55C	C	5 50 55C	
6.	Kitchen Renovation at Hauiki Installation of additional cabinets electrical fixtures, floor tiles and plumbing fixture alteration. Construction Total Funding	KH8106	SOC 220	SOC	90 90C	C	90 90C	
7.	SERVICES TO NATIVE HAWAIIANS Plngng, Devpmt and Mgt for Hawn Homestead Lands Waimanalo Residential Subdivision Plans and construction for incremental develop-	H24	HHL602					



Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Agv.	APPROPRIATIONS (\$1,000's)			
				FY 1981-82 F	FY 1982-83 F	M O	Total M Biennium O 1981-83 F
	Total Funding		HHL	40C	C		40C
11.	Anahola—Molooa Farm and Pastoral Sub-division Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan. Design Construction Total Funding	H-39	HHL 602	1,470 1,470C	C		1,470 1,470C
12.	Statewide Residential Loan Fund Capitalization To provide additional capitalization to the Hawaiian Home General Loan Fund for the construction of homes. Construction Total Funding	H-34	HHL602	380 380C			4,380 4,380C
13.	Hawaiian Loan Guarantee Fund Capitalization To provide an additional \$2,000,000 in the Hawaiian Loan Guarantee Fund to guarantee loans made to Hawaiian Homestead lessees by government or private lending institutions. Construction Total Funding	H-59	HHL602	2,000 2,000C	C		2,000 2,000C
13A.	Re-evaluation of the Hawaiian Home Lands General Plan, Goals and Objectives Update and revise general plan, impose expenditure limit, designate and recommend areas for proposed aquacultural development, reflect new,	H-60	HHL602				



existing, & projected developments from 1976 to present, relate the HHL general plan to current state and counties land use, general and development plans for the areas and prepare a more in-depth general plan.

Plans  
 Total Funding  
 HHL  
 B  
 C  
 200  
 200B  
 C  
 200  
 200B  
 C

13B. Statewide Replacement Home Loan Fund  
 Capitalization  
 To provide capitalization to the Hawaiian  
 Replacement Home Loan Fund for replacement  
 home loans.  
 Construction  
 Total Funding  
 HHL  
 C  
 1,000  
 1,000C  
 1,000  
 1,000C

Overall Program Support for Social Services  
 Plan, Prgm Dev & Coord of SVCS for Elderly  
 Hawaii State Senior Center  
 Plans, design and construction for the repairs and  
 renovations to existing facilities. For senior  
 citizen activities to meet health and safety  
 requirements.  
 Design  
 Construction  
 Total Funding  
 HHL  
 C  
 1,000  
 1,000C  
 1,000  
 1,000C

13C. Overall Program Support for Social Services  
 Plan, Prgm Dev & Coord of SVCS for Elderly  
 Hawaii State Senior Center  
 Plans, design and construction for the repairs and  
 renovations to existing facilities. For senior  
 citizen activities to meet health and safety  
 requirements.  
 Design  
 Construction  
 Total Funding  
 AGS  
 C  
 4  
 31  
 35C  
 4  
 31  
 35C

G. FORMAL EDUCATION

LOWER EDUCATION

Instruction  
 Regular Instruction Program  
 Relocate or Construct Portable Classrooms  
 Relocation or construction of portables each  
 school year to meet enrollment shifts among  
 schools, program demands, unforeseen emergen-

001 EDN 105

Item No.	Cap. Proj. No.	Program and Capital Projects	Exp. Agv.	Program ID	APPROPRIATIONS (\$1,000's)			
					M FY 0 1981-82 F	M FY 0 1982-83 F	M Biennium 0 1981-83 F	Total M
		Program and Capital Projects						
		Design			75	100	175	
		Construction			425	900	1,325	
		Total Funding	AGS		500C	1,000C	1,500C	
2.	002	Minor Improvements		EDN 105				
		Minor additions, renovations and improvement to buildings and school sites.						
		Design			50	75	125	
		Construction			225	215	440	
		Equipment			25	10	35	
		Total Funding	AGS		A 300C	A 300C	A 600C	
3.	003	Lump Sum for Master Plans and Site Studies, Minor Land Acquisition		EDN 105				
		Acquisition of small parcels, master planning, pre-land acquisition studies, site selection and feasibility studies to meet future and unforeseen school needs. CIP assistance from DAGS in providing cost estimates for budgeting and expenditure planning.						
		Plans						
		Land			100	200	300	
		Design						
		Construction						
		Total Funding	AGS		100C	200C	300C	
4.	005	Removal of Architectural Barriers		EDN 105				
		To provide ramps and other corrective measures for easy accessibility of school facilities to handi-						

capped persons.								
Design				75				225
Construction				300				300
Total Funding				375C				525C
5. Lump Sum — Conversion of Classrooms	007	EDN 105						
Conversion of open classrooms to smaller units.								
Design				100				200
Construction				750				1,350
Total Funding			AGS	850C				1,550C
6. Lump Sum — Fire Protection Systems;	008	EDN 105						
Fire Alarm Systems								
Fire protection systems to meet water system standards.								
Design				50				100
Construction				500				750
Total Funding			AGS	550C				850C
7. Lump Sum — Correction to Sound	009	EDN 105						
Problem								
To provide corrective measures on excessive exterior noise and ventilation problems that affect classrooms.								
Design				50				200
Construction				500				1,100
Total Funding			AGS	550C				1,300C
8. Conversion of Classrooms for Special	013	EDN 105						
Education								
Conversion of classrooms to accommodate special education students to meet state and federal regulations.								
Design				100				100
Construction				990				990
Equipment				10				10
Total Funding			AGS	1,100C				1,100C

Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Program ID	APPROPRIATIONS (\$1,000's)				
				FY 1981-82	FY 1982-83	M	F	Total Biennium 1981-83
			Agency	O	F		O	F
8A.	McKinley High Complete first floor of new library building. Renovate old library into classrooms. Design 2nd increment, Bldg C.	140002	EDN 105					
	Design				135			135
	Construction				826			826
	Equipment				10			10
	Total Funding		AGS	C	971C			971C
8B.	Aiea Intermediate School Renovations to science classrooms damaged by gas explosion.	202005	EDN 105					
	Construction							100
	Equipment							2
	Total Funding		AGS	C	102C			102C
9.	Pearl Ridge Elem Design and construct classroom building.	225004	EDN 105					
	Design					70		70
	Construction							
	Equipment							
	Total Funding		AGS	70C	C			70C
10.	Waianae High School Construction of (5) industrial educational classrooms.	325007	EDN 105					
	Design							
	Construction							920
	Equipment							
	Total Funding		AGS	920C	C			920C
10A.	Waipahu High School Design and construct classrooms, ground and site	330005	EDN 105					

improvements.								
Design							130	130
Construction								
Equipment								
Total Funding								130C
11.	Crestview Elem	340002	EDN 105					
	D and C classroom building, temporary administration, library, serv. kitchen, health rm., parking, playground, ground and site improvements—1st increment.							
Design								
Construction						2,821		2,821
Equipment						30		30
Total Funding						2,851C	C	2,851C
11A.	Crestview Elem.	340003	EDN 105					
	Design and construct classroom building, ground and site improvements.							
Design								
Construction							1,062	1,062
Equipment							30	30
Total Funding							1,092C	1,092C
11B.	Waianae II Elem.	341002	EDN 105					
	Design and construct classroom building, ground and site improvements.							
Design								
Construction								
Equipment								
Total Funding								
13.	Hilo High School, Hilo, Hawaii	502003	EDN 105					
	Design and construction—physical education locker shower building and covered walkway, equipment and appurtenances. Demolish old building.							
Design								
Construction								
Equipment								
Total Funding								
						78		78
							1,464	1,464
							20	20
							1,484C	1,562

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					FY 0 1981-82 F	FY 0 1982-83 F	M O	Total Biennium O 1981-83 F
	Construction Equipment				1,422			1,422
	Total Funding			AGS	1,428C	C		1,428C
14.	Honokaa High and Elem Sch Honokaa Hawaii	507002	EDN 105					
	Design and construction of PE locker shower and classrooms; covered walkway, access road; parking; equipment and appurtenances; paved playgrounds.							
	Design				75			75
	Construction Equipment							
	Total Funding			AGS	75C	C		75C
14A.	Kaumana Elementary	512001	EDN 105					
	Design and construction elementary classrooms, equipment and appurtenances, covered walkway.							
	Design					55		55
	Construction Equipment							
	Total Funding			AGS		55C		55C
15.	Pahoa High and Elementary School	523006	EDN 105					
	Design and construction physical education locker-shower facility, equipment and appurtenances; covered walkway.							
	Design				1,095			1,095
	Construction Equipment							
	Total Funding			AGS	1,099C	C		1,099C
16.	Waiakea High School	525004	EDN 105					

Design & construction, secondary classrooms, equipment and appurtenances, covered walkway.

Design					1,917
Construction					16
Equipment					1,933C
Total Funding				C	

17. Waimea Elementary and Intermediate School  
 Waimea, S. Kohala, Hawaii  
 Design and construction — classroom building, covered walkway, equipment and appurtenances.

Design					717
Construction					5
Equipment					722C
Total Funding				C	

18. Kahakai Elem (Keauhou-Kailua)  
 Design and construct classroom building.

Design					75
Construction					1,564
Equipment					20
Total Funding				500C	1,659C

19. Iao School, Maui  
 Design and construct P.E. locker/shower facility.

Design					1,073
Construction					5
Equipment					1,078C
Total Funding				C	

20. Kihei School, Maui  
 Design and construct regular and special classrooms.

Design					87
Construction					1,818
Equipment					30
Total Funding				87C	1,848C

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					M FY 0 1981-82 F	M FY 0 1982-83 F	M Biennium 0 1981-83 F	M Total
21.	Waihee Elementary School Plan, design and construct classroom building.	622005	EDN 105		10			10
	Plans				75			75
	Design							
	Construction				1,759			1,759
	Equipment				25			25
	Total Funding			AGS	1,784C			1,869C
22.	Lahaina Intermediate School Design and construct classroom building.	624008	EDN 105		75			75
	Design							
	Construction				1,938			1,938
	Equipment				30			30
	Total Funding			AGS	1,968C			2,043C
23.	Makawao Intermediate School Plan, design and construct first increment; classrooms, P.E. locker/shower facility, kitchen and dining facilities. Additional land acquisition funds.	625002	EDN 105		30			30
	Plans							
	Design							
	Construction				300			300
	Equipment							
	Total Funding			AGS	300C			330C
24.	Kauai High and Inter Renovation and improvement of the former KCC facilities for the intermediate level.	705005	EDN 105		2,018			2,018
	Design				20			20
	Construction							
	Equipment							
	Total Funding			AGS	2,038C			2,038C





Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Agy.	Program ID	APPROPRIATIONS (\$1,000's)			Total M Biennium 0 1981-83 F
					FY 0 1981-82 F	FY 0 1982-83 F	M C	
	Total Funding		AGS		2,395C	C	2,395C	
	HIGHER EDUCATION							
	University of Hawaii, Manoa							
	Instruction — UOH, Manoa							
28.	George Hall Renovations	022		UOH 101				
	Renovations to accommodate the school of travel industry management including improvements to lighting, acoustics, ventilation and circulation systems.							
	Design				33		33	
	Construction				755		755	
	Equipment							
	Total Funding		AGS		788C	C	788C	
29.	Law School Facilities	052		UOH 101				
	University of Hawaii at Manoa							
	Construction and furniture and equipment for the law school facilities.							
	Design				300		300	
	Construction				2,700		2,700	
	Equipment				500		500	
	Total Funding		AGS		3,500C	C	3,500C	
30.	Oceanographic and Marine Laboratory	113		UOH 101				
	Furniture and equipment for offices, classrooms, laboratories for the marine programs.							
	Design							
	Construction				560		560	
	Equipment							
	Total Funding		AGS		560	A C	560 A C	

Organized Research — UOH, Manoa							
31.	MEC — CORE Storage Building University of Hawaii, Snug Harbor Construction and furniture and equipment for the CORE Storage Building.	122	UOH 102				
	Design			1,026			1,026
	Construction			114			114
	Equipment			1,140C			1,140C
	Total Funding				AGS	C	
31A.	Mauna Kea Observatory, Power Line University of Hawaii Design & construction for a permanent electrical transmission and distribution system from the Saddle road to the summit of Mauna Kea, including substations and switchgear and under- ground power lines.	149	UOH 102				
	Design						200
	Construction						2,000
	Total Funding				AGS	C	2,000C
						E	2,000E
31B.	Kula Experiment Station Renovations and improvements to the existing experiment station.	820009	UOH 102				
	Design						30
	Construction						160
	Equipment						10
	Total Funding				AGS	C	200C
31C.	Public Service — UOH, Manoa Kauai Extension Services Office Equipment Station. Renovations and improvements to convert dor- mitory building to office space at the Kauai branch experiment station.	820006	UOH 103				
	Design						5

APPROPRIATIONS (\$1,000's)

Cap. Proj. No.	Exp. Program ID	M			M			Total M Biennium 1981-83 F
		FY 1981-82 F	FY 1982-83 F	FY 1983-84 F	FY 1981-82 F	FY 1982-83 F	FY 1983-84 F	
			20				20	
					1		1	
					26C		26C	

Item No. Program and Capital Projects

Construction Equipment Total Funding

Student Services—UOH, Manoa

- 32. Baseball Grandstand & Other Improvements, Phase I, Hawaii, Manoa Campus, Oahu
- Design and construction of covered grandstand, including public restrooms, concession area, ticket booth, press box, maintenance equipment area.

Design Construction Equipment Total Funding

Institutional Support—UOH, Manoa

- 33. Modifications to Existing Facilities to Meet HOSHA and Other Code Requirements
- Modifications to existing facilities to meet HOSHA and other code requirements.

Design Construction Total Funding

- 34. Modifications to Existing Facilities for the Physically Handicapped
- Modifications to restrooms and elevators and the installation of new elevators and ramps in existing buildings to serve the handicapped in wheel-

chairs.									
Design						40	40	80	
Construction						360	360	720	
Total Funding						400C	400C	800C	
35.	Energy Conservation Modifications	257	UOH 106						
	Modifications to existing facilities to conserve energy.								
	Design					30		30	
	Construction					270		270	
	Total Funding					300C	C	300C	
35A.	Minor CIP Projects	263	UOH 106						
	Design, construction and equipment for minor improvements including the construction of new facilities as well as modifications to existing structures of Manoa-based programs.								
	Design						15	15	
	Construction						174	174	
	Equipment						11	11	
	Total Funding						A	A	
							B	200B	200B
							C	C	C
36.	University of Hawaii, Hilo								
	Instruction — UOH, Hilo								
	UHH-Athletic Fields and Tennis Courts, Phase II.	329	UOH 211						
	Design and construction of outdoor playfields and tennis courts to provide adequate facilities for physical education, intramurals, athletics and recreation programs.								
	Design					90		90	
	Construction					1,250		1,250	
	Total Funding					1,340C	C	1,340C	
	Student Services — UOH, Hilo								





Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					M FY 0 1981-82 F	M FY 0 1982-83 F	M Biennium 0 1981-83 F	M Total
	Conversion, modifications, renovations, and improvements to existing facilities.							
	Design							
	Construction				135			135
	Equipment							
	Total Funding			AGS	135C		C	135C
	Institutional Support—Leeward CC							
42.	Leeward Community College Renovation of Campus Center Snack Shop and Kitchen	HCF001	UOH 325					
	Design, construction, furniture and equipment to expand the Campus Center Snack Shop and Kitchen for the Food Service Program.							
	Design				8			8
	Construction				55			55
	Equipment				8			8
	Total Funding			AGS	71C		C	71C
43.	Leeward Community College Renovation of Campus Center Gourmet Dining Room	HCF002	UOH 325					
	Design, construction, furniture and equipment to expand the Campus Center Gourmet Dining Room for the Food Service Program.							
	Design				7			7
	Construction				44			44
	Equipment				2			2
	Total Funding			AGS	53C		C	53C
	Maui Community College							
	Institutional Support—Maui Community College							
44.	Maui CC—Site Development	M75	UOH 505					



Clearing, grading and landscaping of undeveloped lands, including additional parking, roadways, lighting, and utilities.

Design	40			
Construction	28			
Total Funding	68C	AGS	C	68C

Higher Education State-wide Support Institutional Sppt—UOH, System-wide Sppt.

45. Removal of Asbestos Materials, Statewide University of Hawaii UOH 903

Corrections and renovations to University buildings with identified asbestos hazards.

Design	100			
Construction	3,100		200	300
Total Funding	3,200C	AGS	1,000	4,100
			1,200C	4,400C

**H. CULTURE AND RECREATION**

**CULTURAL ACTIVITIES**

Historical and Archaeological Places

1. Royal Mausoleum—Nuuanu Petroglyphs F15 LNR 801

Acquisition of additional land for public access plans and research of site including interpretation of historic and archaeological values in Nuuanu Valley.

Renovation of chapel and other improvements at Royal Mausoleum State Monument.

Plans				
Land				
Design	500		300	800
Construction	A		A	A
Total Funding	500C	LNR	300C	800C



immediate needs.

Design				50
Construction				50C
Total Funding			C	50 50C
4.	Kahana Valley State Park	F57	LNR 806	
	Incremental development including historic restoration, water features, and other recreation and cultural and heritage opportunities per master plan and adopted proposals for historical, environmental, cultural interpretation/education programs.			
	Plans		25	25
	Land			
	Design		25	25
	Construction		250	250
	Total Funding		300C	300C
4A.	Wailoa River State Recreation Area	F58	LNR 806	
	Incremental development of major recreation area including landscaping per master plan. Review/update master plan. Land acquisition for new park entrance. Replacement-expansion of existing facilities.			
	Plans			
	Land			
	Design		25	25
	Construction		250	250
	Total Funding		A	A
			C	275C
5.	Hana Road State Waysides	F59	LNR 806	
	Parkway development and plantings, grading and paving of parking areas, and improvements to Kaumahina Wayside. Replace and improve water and sewage systems. Expansion of Puua Kaa for parking and new restroom.			
	Design			

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Ag.	APPROPRIATIONS (\$1,000's)			
					FY 1981-82 F	FY 1982-83 F	M O	Total Biennium 1981-83 F
	Construction Total Funding			LNR	150 A 150C	A C	150 A 150C	
6.	Sand Island State Recreation Area Incremental development of beach park, plans and construction. This project qualifies for fed aid financing/reimbursement.	F70	LNR 806					
	Plans Design Construction Total Funding			LNR	500 500C	100 100C	600 600C	
7.	Makana-Laperouse State Park Incremental acquisition of land as per conceptual plan. Protection of archaeological and biological features. Development to include interpretation of these features as well as to provide facilities for recreation opportunities. Federal aid is being used for this project.	F73	LNR 806					
	Land Design Construction Total Funding			LNR	250 A 250C	A C	250 A 250C	
7A.	Na Pali Coast State Park Provision of camping, and hiking facilities, protection and interpretation of historic and archaeological sites. Management facilities for wilderness type park research of cultural and natural features, and planning for the management of these features and public use of the area.	F80	LNR 806					



Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Ag.	APPROPRIATIONS (\$1,000's)			
					M FY 1981-82 F	M FY 1982-83 F	M FY 1983-84 F	Total Biennium 1981-83 F
	Total Funding			TRN	20D	D		20D
11.	Heeia-Kea Boat Harbor Oahu Paving of mole area and other improvements. Design Construction Total Funding	O30	TRN 801	TRN	78 C 78D N	C D N		78 C 78D N
12.	Haleiwa Boat Harbor Oahu Paving, lighting & other improvements. Design Construction Total Funding	O40	TRN 801	TRN	25 170 195D			25 170 195D
13.	Statewide Improvements to Boating Fac. Improvements to existing boat harbors and boat refuge areas. Design Construction Total Funding	O1S	TRN 801	TRN	10 45 55D			10 45 55D
14.	Lahaina Boat Harbor, Maui Misc. improvements to the existing Lahaina Boat Harbor including marginal wharf, electrical facilities, office, landscaping and other improvements. Design Construction Total Funding	O3M	TRN 801	TRN	20 285 305D			20 285 305D

15.	Ice and Cold Storage Facilities at Various Boat Harbors, Statewide Construction of ice and cold storage facilities at Waianae, Haleiwa, and Port Allen or Nawiliwili Boat Harbors. This project qualifies for federal reimbursement.	04S	TRN 801				
	Construction			TRN	647	D	647
	Total Funding				184D	N	184D
					463N		463N
16.	Improvements to Maalaea Boat Harbor, Maui	13M	TRN 801				
	Paving, drainage and other improvements to backup area.				10		10
	Design				60		60
	Construction			TRN	70D	D	70D
	Total Funding						
17.	Improvements at Existing Kawaihae Boat Harbor, Hawaii	15H	TRN 801				
	Relocation of electrical lines, lighting system, and other improvements.				5		5
	Design				65		65
	Construction			TRN	70D	D	70D
	Total Funding						
17A.	Boat Harbor and Launching Ramp at Ka'ulana, Hawaii	820007	TRN 801				
	Planning, design and construction of a new boat ramp at Ka'ulana, Hawaii. This project qualifies for federal aid/reimbursement.						
	Design				50		50
	Construction			TRN	250	C	250
	Total Funding						300C
18.	Spectator Events & Shows—Aloha Stadium Replacement of Stadium Concourse						

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium O 1981-83 F
					FY O 1981-82 F	FY O 1982-83 F	M	
18A.	Flooring	S1	AGS 889					
	Replacement of structural metal decking and concrete decking.							
	Design				80			80
18B.	Construction				1,220			1,220
	Total Funding			AGS	A			A
					1,300C			C 1,300C
18C.	Renovation of Movement System	S7	AGS 889					
	Renovation of movement system to include the concrete runways and transporters and the purchase of replacement air bearings.							
	Design							
18D.	Construction							
	Total Funding			AGS				
						50		50
18E.	Bankment Stabilization on Aloha Stadium Grounds	B21	AGS 889					
	Stabilization and restoration of embankments on stadium grounds.							
	Design							
18F.	Construction							
	Total Funding			AGS				
						40		40
18G.	Renovations to the Loge Level	B28	AGS 889					
	Expansion and other improvements to the press box areas and loge level at Aloha Stadium, Oahu.							
	Design							
18H.	Construction							
	Total Funding			AGS				
						50		50
18I.	Construction							
	Total Funding			AGS				
						300		300
GENERAL ADMIN FOR CULTURE & RECREATION								350C



19. SCORP (State Comprehensive Outdoor Recreation Plan) LNR 809  
 Updating of inventory demand and action program for outdoor recreation to qualify for continuous receipt of federal grants for acquisition and development of recreational areas. This project qualifies for fed aid financing/reimbursing/reimbursement. This project receives fed aid financing/reimbursement. LNR 80  
 Plans 40A A  
 Total Funding C C  
 40N N

**I. PUBLIC SAFETY  
 SAFETY FROM CRIMINAL ACTIONS**

Confinement  
 Juvenile Correctional Facilities  
 1. Restore 15,000 Sq Ft Under Roof of Maunawili Cottage to Convert Usage Back to Residency. CD7910 SOC 401  
 Relocate non-residential activities and restore all rooms, dormitories and all other areas to original use status as a residency unit for juvenile offenders. Also renovate and refurbish existing kitchen facilities to meet standards. Unexpended balances from item I-5, Act 300, SLH 1980 may be used for this project.  
 Design 750  
 Construction 50  
 Equipment A  
 Total Funding 800C  
 AGS  
 A C

2. To Develop Plans for the Best Utilization of Land at HYCF for a New Physical Plant CD7920 SOC 401  
 Develop plans and programs for long term utilization of available land for a juvenile correc-

Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Agv.	APPROPRIATIONS (\$1,000's)				Total M
				M FY 0 1981-82 F	M FY 0 1982-83 F	M FY 0 1982-83 F	M FY 0 1981-83 F	
	Program and Capital Projects							
	ational services center at the HYCF, Kailua, Oahu.							
	Plans			200			200	
	Design			150			150	
	Total Funding		AGS	350C		C	350C	
3.	Temporary Classroom Units for Olomana School, HYCF.	CD7923						
	To erect and equip three temporary classroom structures of similar design to existing DOE units to house staff and wards of Olomana School at HYCF complex, to be fenced.	SOC 401						
	Design			20			20	
	Construction			165			165	
	Equipment			10			10	
	Total Funding		AGS	195C		C	195C	
4.	Kulani Correctional Facility							
	Plan/Design & Build a 3 Million Gallon Water Reservoir at Kulani Correctional Facility	CD7918						
	To build a 3 million gallon reservoir on a three acre parcel of pasture land at Kulani Correctional Facility to supplement the existing water storage facilities.	SOC 403						
	Plans			5			5	
	Design			25			25	
	Construction			150			150	
	Equipment			10			10	
	Total Funding		AGS	190C		C	190C	
5.	Extend and Renovate the Existing Administration Building at Kulani Correctional							

Facility	CD7919	SOC 403			
To add a new wing and renovate interior of existing administration building.					
Plans					2
Design					3
Construction					125
Equipment					3
Total Funding			AGS	C	133C
Oahu Community Correctional Center					
6. To Expand Scope of OCCC Renovation Project	CD7913	SOC 407			
Expand the scope of Oahu CCC renovation project to include renovation of approx 8000 sq ft on the second floor of the existing admin building for use as inmate housing. Unexpended balances from item I-10, Act 300, SLH 1980 may be used for this project.					
Design					1,150
Construction					1,150C
Total Funding			AGS	C	1,150C
6A. Oahu Community Correctional Center	820005	SOC 407			
Feasibility study for construction of an electric generating plant at Oahu Community Correctional Center.					
Plans					20
Total Funding			AGS	20A	20A
General Support — Criminal Action					
General Adm—Confinement					
7. Plan and Design for Additional Facilities for Neighbor Island ISC/CCCS.	CD7915	SOC 493			
To plan and design a prototype structure for three neighbor island ISC/CCCS to be utilized by three service delivery agencies: intake service centers, Hawaii Paroling Authority and Correc-					



Construct classrooms and support facilities for the educational program at the HYCF.

Design					
Construction		338			338
Equipment					
Total Funding		338C			338C

8C.	Kulani Honor Camp Water System	820003	SOC 493		
	Planning and design for a water reservoir system.				
	Design				150
	Total Funding			A	150A

**SAFETY FROM PHYSICAL DISASTERS**  
Amelioration of Physical Disasters

9.	Additional Improvements at the Departmental Administration Building and 100-Man Armory	A29	DEF 110		
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Planning and construction of additional improvements at the departmental administration building and 100-man armory for providing facilities for the joint staff of the adjutant general's office, the recruiting and retention office, and the Hawaii Area Command to include administrative space, parking, landscaping, fencing, and other improvements.

Design					85
Construction					
Total Funding					85C

10.	Additional Improvements to National Guard Armories	A31	DEF 110		
-----	--	-----	---------	--	--

Planning and construction of additional improvements at all national guard armories to upgrade facilities to conform to current national guard bureau standards and criteria and to meet other unit requirements. This project is deemed necessary to qualify for federal aid financing or



Incremental replacement of civil defense disaster warning sirens, statewide, worn out and unserviceable due to age, use and exposure. This is a continuing program from year to year. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Plans	1	1	2
Land	1	1	2
Design	18	18	36
Construction	184	204	388
Totaling Funding	204C	224C	428C
	N	N	N

AGS

C13 DEF 110

14. Additional Disaster Warning Sirens  
Incremental installation of additional civil defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities and population shifts. This is a continuing program from year to year. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Plans	1	1	2
Land	1	1	2
Design	28	38	66
Construction	348	376	724
Total Funding	378C	416C	794C
	N	N	N

AGS

C15 DEF 110

15. Radio Controlled Siren Warning System  
Provide adaptability design and incremental implementation of a project to replace the present telephonically controlled siren warning system with a radio controlled siren warning system. Available federal funds may be used to supplement this project.

Construction	125	125
Equipment		150

150





Land acquisition, design and construction of infrastructure system improvements for development of the Kaka'ako area as provided for in the Kaka'ako community development district plan.

Design  
Total Funding  
PED  
5,555 A  
5,555C C

GENERAL SERVICES

Property Management  
Public Lands Management

E04 LNR 101

1C. Waimanalo Development, Oahu Treatment Plant, Waimanalo, Koolaukoko, Oahu Ongoing program-primarily drainage. Waimanalo Sewage Treatment Plant.

Design  
Construction  
Total Funding  
LNR  
20  
130  
150C  
B  
C  
D  
N

E58 LNR 101

2. Seawall Improvement, Waikiki  
Plans, design and incremental construction of improvements to seawall including railings, rehabilitation of seawall, fences and other improvements necessary for the safe passage of the public over existing seawalls.

Plans  
Design  
Construction  
Total Funding  
LNR  
30  
50  
250  
330C  
250  
250C

E59 LNR 101

3. Sand Island Industrial Subdivision  
Planning, design and construction of roadways, sewer system on-site and off-site water and drainage facilities and related improvements to devel-

Item No.	Cap. Proj. No.	Exp. Agency	APPROPRIATIONS (\$1,000's)				
			M FY 0 1981-82 F	M FY 0 1982-83 F	M Total Biennium 1981-83 F	M	
Program and Capital Projects op state lands on Sand Island.			70			70	
	Plans						
	Land						
	Design						
	Total Funding		70C		C	70C	
3A.	Kawainui Marsh, Oahu						
	Acquisition of land and water rights at Kawainui Marsh, Oahu.	BHE410 LNR 101					
	Land		4,500	1,500		6,000	
	Total Funding		4,500A	1,500A		6,000A	
	Facilities Construction and Maintenance Construction						
4.	Vineyard Street Garage, Phase II						
	Design and construct Phase II of the Vineyard Street Garage.	A18 AGS 221					
	Land						
	Design		102			102	
	Construction		3,444			3,444	
	Total Funding		C		C	C	
			3,546D		D	3,546D	
5.	Kaunakakai Civic Center						
	Land acquisition, design and construction of a new state office building to accommodate various agencies.	A39 AGS 221					
	Plans						
	Land						
	Design						
	Construction		19	553		553	
	Equipment			123		123	
	Total Funding		19C	676C		695C	

6.	State Office Bldg. No. 2, Phase II Design & construct Phase II of a new state office building in the Milliani Mall block to include demolition, landscaping and continuation of Phase I.	A40	AGS 221	66	66
	Plans				
	Design				
	Construction				
	Equipment				
	Total Funding			66C	66C
				C	
7.	Lihue SOB, Addition, Renovation and Parking — Additional to the third floor to provide additional office space and renovation of the existing offices in the building. This project also includes a parking lot.	A46	AGS 221		
	Design				
	Construction				
	Equipment				
	Total Funding			1,617 5	1,617 5
				1,634C	1,634C
				C	
7A.	New Makai Parking Garage Design and construct a parking structure on Lot A to service the state buildings in the area, to include landscaping and demolition and temporary parking facilities on the judiciary complex site. Also includes office space in the structure.	A56	AGS 221		
	Design				
	Construction				
	Total Funding				
				120	120
				120C	120C
				D	D
8.	Kamamalu Bldg. Renovation To replace air conditioning equipment, lighting, and other office renovations.	B04	AGS 221		
	Design				

Item No.	Program and Capital Projects	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)					
					FY 0 1981-82 F	M 1999	FY 0 1982-83 F	M C	Total M Biennium 0 1981-83 F	
9.	Construction Total Funding			AGS	199	199C		C	199	199C
	Advance Planning, Statewide Provide assistance to the public, state and counties in matters relating to public works division. It includes the preparation of reports, studies, inventories, reviews and performance of all necessary activities to carry out DAGS functions.	B27	AGS 221							
10.	Plans Total Funding			AGS	110	110C	110	A 110C	220	A 220C
	Remodeling State Office Buildings Design and construction of remodeling and upgrading state office buildings, statewide. This project will supplement funds from Act 214/79, Item K13 and Act 300/80, Item K13 and Act 1/81, Item K-10 also includes equipment.	B28	AGS 221							
11.	Design Construction Equipment Total Funding			AGS	20	80	40	280	60	360
	State Capitol Improvements and Renovations Improvements to the building systems including roof, air conditioning, office renovations, pool improvements, security gates and other facilities improvements and renovations for the state capitol.	B41	AGS 221			100C	333C	13	433C	

Construction Total Funding					535 535C	C	535 535C
11.A. Honolulu District, Office Space Improvements Design and construction of improvement of loft space in the new Honolulu District Court Build- ing for state office space. Design Construction Total Funding	B52	AGS 221			50 50C	50 50C	50 50C
12. Landscaping Improvements State Capital Complex Design and construction of landscaping for the State Capital complex. Design Construction Total Funding	B54	AGS 221			36 36C	36 36C	36 36C
13. Kalamimoku Building A/C Improvement Design and construction of modifications to the Kalamimoku Building air conditioning system for increased efficiency and to meet additional load requirements. Design Construction Total Funding	B57	AGS 221			106 106C	106 106C	106 106C
13A. Irrigation Water Supply Phase I State Capital Complex Design and construct a distribution system for caprock water for irrigation use in the state capi- tal complex Phase I area. Design Total Funding	B66	AGS 221			25 25C	25 25C	25 25C
13B. Renovation of old Kona Hospital, Hawaii	820015	AGS 221					

Item No.	Program and Capital Projects	Cap. Proj. No.	Exp. Program ID Agy.	APPROPRIATIONS (\$1,000's)			
				M FY 1981-82 F	M FY 1982-83 F	M Biennium 1981-83 F	Total
	Design, construction and furnishing for the renovation of a portion of the old Kona Hospital for offices of various state agencies. Includes the construction of a parking lot.						
	Design			50	50		50
	Construction			800	800		800
	Equipment			50	50		50
	Total Funding		AGS	C	900C		900C

(1a) By amending Section 95 to read:

“SECTION 95. Provided that of the \$1,200,000 in fiscal year 1981-82 and \$1,000,000 in fiscal year 1982-1983 in capital improvement appropriations authorized in Part II and listed in Part IV of this Act to the Energy Development and Management Program (PED 120), not more than \$300,000 for each fiscal year of the fiscal biennium 1981-83 shall be for the development of a deepwater cable linking all the major islands including the island of Hawaii.”

(2) By adding a new Section to read:

“SECTION 95A. Provided that the department of transportation shall encourage the relocation of flight school activities by:

- (1) Making improvements at Dillingham Field;
- (2) Permitting, by rules and regulations, landings and takeoffs at Honolulu International Airport (HIA) only by certified pilots or by student pilots accompanied by a certified pilot in the cockpit;
- (3) The assessment and collection of reasonable use fees at HIA for general aviation activities;
- (4) Making selective improvements at HIA to facilitate the movement of all general aviation activity, other than flight schools, to the Lagoon Drive side of HIA; and
- (5) Better scheduling of activity at HIA;

provided further that the funds appropriated for land acquisition of the Oahu General Aviation Airport site at Dillingham shall only be used for the purchase of federal surplus lands.”

(3) By adding a new Section to read:

“SECTION 95B. Provided that the University of Hawaii may explore the feasibility of designing and constructing a portion of the Mauna Kea powerline above the ground, and may seek the necessary amendment to the Mauna Kea master plan from the state department of land and natural resources to accommodate the overhead portion of the powerline if it is deemed feasible.”

(4) By adding a new Section to read:

“SECTION 95C. Provided that funds authorized for the Insurance Guaranty Program (REG 104) shall not be used unless legal agreements for repayment are entered into.”

SECTION 6. Session Laws of Hawaii, 1980, Section 7, Item D-3, amending Act 214, Session Laws of Hawaii, 1979, Section 120, is amended to read as follows: “Hawaii Endangered Species Facilities — Plans and construction of utility buildings and staff and cooperators quarters and animal enclosures. This project qualifies for federal aid financing/reimbursement.

	FY 1979-80	FY 1980-81
Plans	1	1
Design	1	
Construction	18	59
Total	20C	15C 45N”

SECTION 7. Item H-54A, Section 7, Act 300, Session Laws of Hawaii 1980, is amended to read as follows: “SCORP (State Comprehensive Outdoor

Recreation Plan) — Updating of inventory demand and action program for outdoor recreation to qualify for continuous receipt of federal grants for acquisition and development of recreation areas. This project receives federal aid financing/reimbursement. This project qualifies for federal aid financing/reimbursement.

	<b>FY 1979-80</b>	<b>FY 1980-81</b>
Plans		50
Total		25A 25N”

SECTION 8. Item H-19, Section 92, Act 1, Sp SLH 1981, is amended to read as follows: “SCORP (State Comprehensive Outdoor Recreation Plan) — Updating of inventory demand and action program for outdoor recreation to qualify for continuous receipt of federal grants for acquisition and development of recreational areas. This project receives federal aid financing/reimbursement. This project qualifies for federal aid financing/reimbursement.

	<b>FY 1981-82</b>	<b>FY 1982-83</b>
Plans	80	
Total	40A 40N”	

SECTION 9. Item J-1, Section 7 of Act 300, SLH 1980, is amended to read as follows: “1. Insurance Guaranty Program RB1 REG 104 — Insurance guaranty program for industrial loan companies.

	<b>FY 1979-80</b>	<b>FY 1980-81</b>
Construction		12,000
Total Funding AGS	C	12,000C”

SECTION 10. Part VI, of Act 1, First Special Session Laws of Hawaii, 1981, is amended:

(1) By adding a new Section to read:

“SECTION 103A. The following sums, or so much thereof as may be necessary, are appropriated out of the general revenues of the State of Hawaii for the fiscal year 1982-83 to the expending agencies designated; provided that no allotment of appropriations made in this section shall be made except in accordance with Section 108 of this Act:

~~SECTION 6. Part VI, of Act 1, First Special Session Laws of Hawaii, 1981, is amended:~~

~~(1) By adding a new Section to read:~~

~~“SECTION 103A. The following sums, or so much thereof as may be necessary, are appropriated out of the general revenues of the State of Hawaii for the fiscal year 1982-83 to the expending agencies designated; provided that no allotment of appropriations made in this section shall be made except in accordance with Section 108 of this Act:”~~



<u>Organization</u>	<u>Program I.D.</u>	<u>Amount</u>
<u>Employment</u>		
Goodwill Industries of Honolulu — Vocational Orientation and Living Skills (VOLS) Program	SOC 802	65,000
HAHRC — Hilo Vocational Rehabilitation Center — Pre-vocational and Work Activity	SOC 802	89,500
Hawaii Centers for Independent Living	SOC 802	112,000
Hawaii Services on Deafness — Counseling for Hearing Impaired	SOC 802	25,442
Maui Rehabilitation Center — Prevocational Training Program	SOC 802	12,000
Maui Rehabilitation Center — Work Activity Services	SOC 802	72,000
Molokai Rehabilitation Facility — Work Activity Program	SOC 802	35,000
<u>Health</u>		
Hemophilia Foundation of Hawaii	HTH 151	120,500
Kapiolani/Children's Medical Center — Hawaii Poison Center	HTH 170	100,000
Hale Ho'ola Hou — Family Planning	HTH 185	30,000
Hawaii Planned Parenthood — Family Planning	HTH 185	275,000
Kapiolani/Children's Medical Center — Family Planning Program	HTH 185	42,000
Child and Family Service — Hale Lokahi	HTH 801	57,300
Child and Family Service — Shelter for Abused Spouses and Children	HTH 801	57,000
Family Crisis Shelter, Inc.	HTH 801	53,000
Hawaii Society for Autistic Children — Autistic Vocational Education Center	HTH 501	60,000
Kapiolani/Children's Medical Center — Hawaii Family Stress Center	HTH 801	126,000
Kauai County YWCA — The Shelter	SOC 111	67,000
Parent and Child Center of Kalihi — Hana Like Home Visitor Program	HTH 801	74,000
Waikiki Health Center	SUB 601	50,000

**ACT 264**

Women Helping Women — Hale Loko Maikai — Shelter and Program for Victims of Family Violence	SOC 111	55,000
YWCA — Kauai Women's Center Rape Crisis Team	HTH 801	15,000
Alcoholic Rehabilitation Services of Hawaii, Inc. — Hina Mauka Long-term Residential Treatment	HTH 401	29,675
Awareness House, Inc.	HTH 401	42,600
Big Island Council on Alcoholism — Hakalau Halfway House	HTH 401	30,000
Catholic Social Service — Bilingual/Bicultural Program	HTH 401	30,000
Catholic Social Service — Integrated Alcohol	HTH 401	50,000
Child and Family Service — Hale O'Ulu	HTH 401	54,000
Child and Family Service — Kalihi-Palama School Project	HTH 401	25,000
County of Kauai — Kauai Outreach Program	HTH 401	25,000
Drug Addiction Services of Hawaii, Inc.	HTH 401	135,500
Hawaii Alcoholism Foundation — Halfway House (Sand Island)	HTH 401	45,000
Hawaii Committee on Alcoholism — Substance Abuse Prevention and Treatment Services	HTH 401	88,000
Hawaii Island YWCA — Sexual Assault Support Service	HTH 401	28,419
John Howard Association — Waianae Rap Center	HTH 401	100,000
Kalihi YMCA — Alternatives for Youth	HTH 401	68,000
Kapiolani/Children's Medical Center — Sex Abuse Treatment Center	HTH 401	200,000
Lanakila Rehabilitation Center — Mental Health Program	HTH 401	26,000
Maui Kokua Services, Inc. — Helpline	HTH 401	10,000
Opportunities for the Retarded, Inc. Pre-vocational Agricultural		

Training Program	HTH 501	100,000
Po'ailani, Inc. — Cooperative Living Program	HTH 401	4,000
Po'ailani, Inc. — Transitional Living Unit	HTH 401	38,000
St. Francis Hospital — Women's Alcohol Treatment Center of Hawaii	HTH 401	75,000
Salvation Army — Addiction Treatment Facility	HTH 401	372,173
Salvation Army — Malama Makua	HTH 401	15,000
Serenity House, Inc.	HTH 401	15,000
The House, Inc. — The House	HTH 401	31,000
Volunteer, Information and Referral Service — Suicide and Crisis Intervention Center	HTH 401	58,000
YMCA of Honolulu — Detached Counselors Program	HTH 401	46,000
Easter Seal Society of Hawaii, Inc. — Infant/Child Development Services	HTH 500	160,000
Hilo Association to Help Retarded Citizens (HAHC) — Deaf/Blind Multi-Handicap	HTH 500	37,000
Society for Crippled Children and Adults of Maui County, Inc. — Infant Child Development Program	HTH 500	58,000
Variety Club School	HTH 500	97,000
Brantley Center	HTH 501	61,000
Easter Seal Society of Hawaii, Inc. — Respite Services	HTH 501	43,000
HAHRC — Community Residence Project Respite Care	HTH 501	11,500
Hawaii Association for Retarded Citizens Pre-vocational Program	HTH 501	261,769
Kona Association for Retarded Citizens dba Kona Krafts Pre-vocational	HTH 501	16,354
Kona Association for Retarded Citizens dba Kona Krafts — Work Activity and Sheltered Workshop	HTH 501	37,000
Lanakila Rehabilitation Center — Day Work Activity Program —		

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Honolulu and Wahiawa	HTH 501	204,157
Maui Association for Retarded Citizens, Inc. — Respite Care	HTH 501	12,500
Rehabilitation Unlimited Kauai — Day Work Activity	HTH 501	46,000
Research Center of Hawaii — Prevocational Program for Mentally Retarded Adults in Haleiwa-Waiialua	HTH 501	45,000
St. Francis Hospital — Northern Koolau Community Health Education	HTH 908	54,000
Kahua Ho'omalua Kina, Inc. dba Protection and Advocacy Agency	GOV 102	71,280
Molokai General Hospital — Molokai Comprehensive Health Program	SUB 601	223,922
Waianae Coast Comprehensive Health Center — Emergency Room	SUB 601	157,848
<u>Social Problems</u>		
Boys Club of Honolulu	SOC 111	37,500
Catholic Social Service — CPS Paraprofessional Program	SOC 111	21,000
Catholic Social Service — Child Sexual Abuse Treatment Program	SOC 111	22,000
Catholic Social Service — Small Group Homes/ Paired Housing	GOV 602	75,000
County of Kauai Office of Elderly Affairs — Transportation Services	GOV 860	85,000
County of Maui — Maunaolu Youth Residential Center	SOC 111	86,000
Hale Kipa, Inc. — Hale Kipa Transition House	SOC 111	22,000
Hale Opio Kauai, Inc.	SOC 111	53,900
Kona Crisis Center — Social Problems	SOC 111	8,000
Salvation Army — Hilo Interim Home	SOC 111	78,100
Waianae Coast Day Care Center, Inc. — Infant Development	HTH 500	70,000
Hawaii County Economic Opportunity Council — Maintenance of Effort	GOV 860	15,000
Hawaii County Economic Opportunity Council — Transportation	GOV 860	107,300

Kauai Economic Opportunity, Inc. — After School Care Program — Community Anti-crime Program	GOV 860	36,200
Legal Aid Society of Hawaii	GOV 860	800,000
Maui Economic Opportunity — Community Action Support	GOV 860	60,000
Maui Economic Opportunity — Transportation	GOV 860	62,000
Kapahulu Senior Center	GOV 602	65,600
Susannah Wesley Community Center — Immigrant Services	GOV 803	39,800
Susannah Wesley Community Center — Kalihi-Palama Youth Intake Center	GOV 803	53,000

#### Formal Education

Department of Education — Hilo High School — Holomua	EDN 106	97,000
Hawaii County Economic Opportunity Council — LAMP	EDN 108	150,000
Maui Hui Malama, Inc.	EDN 108	36,000
Palama Interchurch Council — Immigrant Youth Program	EDN 108	62,516
Pacific and Asian Affairs Council	EDN 207	43,200
Liliha Library — After School Program	EDN 407	24,000

#### Culture and Recreation

Bishop Museum — Culture and Recreation	AGS 881	250,000
Friends of Lahainaluna Hawaiiana Club	AGS 881	9,000
Friends of Waipahu Cultural Garden Park	AGS 881	50,000
Hawaii Performing Arts Company — HPAC General Support	AGS 881	20,000
Hawaii Public Radio — KHPR	AGS 881	54,000
Hawaii Youth Symphony Association	AGS 881	25,000
Hawaiian Canoe Racing Association	AGS 881	5,000
Home Na'auao O K'au "The Mill" — Cultural/Educational Revitalization Program	AGS 881	10,000
Honolulu Symphony Society —		

Youth Concert Program	AGS 881	216,000
Honolulu Theatre for Youth — Statewide Theatre Youth Project	AGS 881	102,000
Kalihi-Palama Culture and Arts Society, Inc.	AGS 881	16,200
Na Opio Canoe Club Association	AGS 881	12,500
Na Wahine O Ke Kai — 4th Annual Women's Molokai-to-Oahu Canoe Race	AGS 881	1,000
Waianae Coast Culture and Arts Society, Inc. — Waianae Coast Culture and Arts Center	AGS 881	45,000

(2) By adding a new Section to read:

“SECTION 103B. The program I.D. assigned to each organization in Section 103A shall designate the expending agency for the appropriations in that section; provided that the designated expending agency is authorized to delegate to other state agencies the expenditure of funds when it is determined by such agency that it is more advantageous to do so.”

(3) By adding a new Section to read:

“SECTION 103C. Provided that the Legislature specifically forbids the granting of civil service status to employees of private, non-profit agencies receiving grants-in-aid, such practice being in direct violation of legislative intent.”

(4) By adding a new Section to read:

“SECTION 103D. Provided that general funds appropriated to Women Helping Women shall be used for a sexual abuse crisis program and a shelter and program for victims of family violence; provided further that both programs are to be administered by Women Helping Women—Hale Loko Maikai.”

(5) By adding a new Section to read:

“SECTION 103E. Provided that the general fund appropriation for fiscal year 1982-83 to Kapiolani/Children's Medical Center—Hawaii Family Stress Center shall be allocated in the following manner: \$21,000 for the core at Kapiolani/Children's Medical Center, \$12,000 for Oahu, \$22,000 for Hilo, \$17,000 for Kona, \$17,000 for Maui, \$15,000 for Molokai, and \$22,000 for Kauai.”

(6) By adding a new Section to read:

“SECTION 103F. Provided that the general funds appropriated to Kauai Economic Opportunity, Inc., shall be used for after school care program, and shall not be used to conduct a community anti-crime program.”

(7) By adding a new Section to read:

“SECTION 103G. Provided that none of the funds appropriated for fiscal year 1982-83 to the Hawaiian Canoe Racing Association shall be used to pay travel expenses.”

(8) By adding a new Section to read:

“SECTION 103H. Provided that all attorney fees awarded, ordered, stipulated to or collected by the Legal Aid Society of Hawaii against any state agency or officer, after July 1, 1982, which would cause the amount of state funds to exceed the amount appropriated for each respective fiscal year, shall be paid from or set-off

against the sum appropriated for each respective fiscal year to the Legal Aid Society of Hawaii; provided further that the Legal Aid Society of Hawaii shall submit reports to the Legislature twenty days prior to the convening of each regular legislative session. These reports shall include statements of income, expenditures, and accomplishments for the previous fiscal year.”

(9) By adding a new Section to read:

“SECTION 103I. Provided that of the general funds received by the various private agencies in the form of grants-in-aid, such funds or any other public funds shall not be used for salary increases; provided further that if public funds are used for salary increases, the grants-in-aid allocation shall be reduced by the amount of such increases.”

(10) By adding a new Section to read:

“SECTION 103J. Provided that \$50,000 shall be made available to Hawaii Public Radio in fiscal year 1982-83 only if the following salaries shall be no more than the following amounts: General Manager — \$24,500, Development/Promotions Director — \$20,000, Program/News Director — \$18,000, Music Director — \$16,800, Operations Manager/Chief Announcer — \$17,000.”

(11) By adding a new Section to read:

“SECTION 103K. Provided that the sum of \$250,000 appropriated in fiscal year 1982-83 for Bishop Museum shall be expended as follow: \$5,000 for the TAPA PRODUCT — Department of Anthropology; \$85,000 for the Department of Exhibits for exhibit expense, repairs and renovation and “Hawai‘i: The Royal Isles”; \$5,000 to the Department of Education; \$5,000 to the Hawaii Immigrant Heritage Preservation Center; \$5,000 to the Division of Ethnology; \$40,000 to the Library to include books and periodicals; and \$35,000 to the Department of Anthropology to include but not be limited to tape preservation, classroom readings and slide series. Further provided, that the remaining amount of the total appropriation shall be allocated for positions within Bishop Museum with respect to the listed projects.”

SECTION 11. Part VII, Act 1, First Special Session Laws of Hawaii, 1981, is amended:

(1) By amending Section 112 to read:

“SECTION 112. Unless otherwise provided in this Act, the Governor is authorized to transfer any unrequired balances of appropriations after the objectives of appropriations made in this Act will have been met between appropriations within an expending agency for research and development and operating purposes, provided that the preceding requirements shall not apply if any transfer of funds between appropriations within an expending agency or between expending agencies is necessary to supplement any federal funds reflected in Part II of this Act which is reduced, the reduction or any portion of such reduction of which in the judgment of the Governor is not in the best interest of the State. Any transfer made pursuant to this section shall not be used to implement any collective bargaining contract.”

(2) By amending Section 119 to read:

“SECTION 119. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made, provided that all appropriations made to be expended in fiscal year 1981-82 and fiscal year 1982-83 which are unencumbered as of June 30, 1984 shall lapse as

of that date, and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement as listed and denoted in Section 92, which appropriations in its entirety the Legislature hereby determined are necessary to qualify for federal aid financing and reimbursement.”

(3) By amending Section 120 to read:

“SECTION 120. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the Legislature; provided that a report of such allocations for the period ending December 31 of each calendar year shall be made to the Legislature by February 1 of the following calendar year.”

SECTION 13.<sup>2</sup> Severability. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the Legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 14. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes pursuant to this section shall be reported to the Legislature at its next session.

SECTION 15. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.<sup>3</sup> Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 1, First Special Session Laws of Hawaii, 1981, not repealed or modified by this Act.

SECTION 16. Effective date. This Act shall take effect upon its approval.

(Approved June 17, 1982.)

**Notes**

- 1. Deleted by Governor on July 15, 1982 pursuant to SECTION 14 of this Act.
- 2. No SECTION 12.
- 3. Edited accordingly.

**A Bill for an Act Relating to the Income Tax.**

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident indi-



vidual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$25 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$25 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1982. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

The credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanant who has been committed to jail and has been physically confined for the full taxable year.

This section implements the provisions of Article VII, Section 6 of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

#### **“DISPOSITION OF EXCESS REVENUES**

**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 17, 1982.)

**ACT 266**

**H.B. NO. 2230-82**

**A Bill for an Act Relating to Electricity Generated From Nonfossil Fuels.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that maximization of the use of locally available nonfossil fuels is in the best interest of the State, but that such maximization will not be achieved until the value of such fuels to the public is recognized to be at least equal to the cost of fossil fuels to be displaced. Accordingly, such use should be encouraged to the greatest practicable extent.

**SECTION 2.** Section 269-27.2, Hawaii Revised Statutes, is amended to read

as follows:

**“§[[269-27.2[ ] Utilization of electricity generated from nonfossil fuels.**

(a) The public utilities commission shall investigate and determine the extent to which electricity generated from nonfossil fuel sources is available to public utilities which supply electricity to the public, which electricity is in excess of that utilized or otherwise needed by the producers for their internal uses and which such producers are willing to make available to such public utilities.

(b) The public utilities commission may direct public utilities which supply electricity to the public to arrange for the acquisition of and to acquire such electricity generated from nonfossil fuel sources as is available from and which the producers of same are willing and able to make available to such public utilities, and to employ and dispatch such nonfossil fuel generated electricity in a manner consistent with the availability thereof to maximize the reduction in consumption of fossil fuels in the generation of electricity to be provided to the public.

(c) The rate payable by the public utility to the producer for such nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided, that in the event the public utility and the supplier fail to reach an agreement for such rate, such rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer, the commission shall [give due consideration, among other factors, to the costs that the public utility would incur in the supply of electricity, to the need in the public interest of adequate and economical electric service by the public utility, and to the need of revenues sufficient to enable the producer of nonfossil fuel generated electricity to provide the electricity to the public utility.] establish that the rate for purchase of firm energy, as defined in section 6-74-1 of the rules established by the commission for standards for small power production and cogeneration, in effect as of February 18, 1982, shall not be less than one hundred per cent of the estimated avoided costs as defined by section 6-74-17, subject to section 6-74-23, of the aforementioned rules.

Nothing in this subsection shall affect existing contracts between public utilities and suppliers of nonfossil fuel generated electricity.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1982.)

A Bill for an Act Relating to the Judiciary Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known as the Judiciary Supplemental Appropriations Act of 1982.

SECTION 2. This Act amends Act 2, Session Laws of Hawaii 1981, First Special Session.

SECTION 3. Section 3, Act 2, Session Laws of Hawaii 1981, First Special Session, is amended to read:

“SECTION 3. **Appropriations.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1981, and ending June 30, 1983. The total expenditures and the number of permanently established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

Item No.	Program	Program ID	FY 1981-82 M O F	FY 1982-83 M O F	Total Biennium 1981-83 M O F
THE JUDICIAL SYSTEM					
Court Operations					
1	Court of Appeals Operating	JUD 101	40.00* 1,268,363A	40.00* 1,333,450A	2,601,813A
2	Land Court/Tax Court Operating	JUD 102	4.00* 90,164A	4.00* 100,013A	190,177A
3	Circuit Courts Operating	JUD 111	248.00* 5,928,121A 108,000N	251.00* 6,470,618A 115,500N	12,398,739A 223,500N
4	Family Courts Operating	JUD 112	221.50* 5,507,325A 109,323N	233.50* 6,566,497A 112,507N	12,073,822A 221,830N
5	District Courts Operating	JUD 121	379.00* 6,816,304A	438.50* 9,504,222A	16,320,526A
Support Services					
6	Administrative Director Services Operating Investment: Capital	JUD 201	69.00* 3,067,696A 15,340,000C	76.00* 3,036,771A 15,776,000C	6,104,467A 31,116,000C
7	Law Library Operating	JUD 202	8.00* 444,075A	8.00* 460,374A	904,449A
8	Driver Education and Training Operating	JUD 221	43.00* 668,453B	43.00* 688,940B	1,357,393B”

SECTION 4. Act 2, Session Laws of Hawaii 1981, First Special Session is amended:

(1) By amending Section 7 to read:

“SECTION 7. Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$25,000 in fiscal year 1981-1982 and \$35,000 in fiscal year 1982-1983 shall be used for a judicial selection commission.”

(2) By adding a new Section to read:

"SECTION 9A. Provided that of the general fund appropriation for the fiscal year 1982-83 to Circuit Courts (JUD 111), \$150,000 shall be used to contract with private sector agencies for adult treatment services as an alternative to incarceration; provided further that of the general fund appropriation for (JUD 111) \$900 shall be used for the purchase of an electric typewriter for the Second Division of the First Circuit Court of the State of Hawaii."

(3) By adding a new Section to read:

"SECTION 9B. Provided that of the general fund appropriation for the District Courts Program (JUD 121), \$200,000 shall be used for an energy management system in the Honolulu District Court Building in fiscal year 1982-83."

(4) By adding a new Section to read:

"SECTION 9C. Provided that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$74,000 in fiscal year 1982-1983 shall be used for alternative dispute resolution mechanisms."

SECTION 5. Section 10, Session Laws of Hawaii 1981, First Special Session, is amended to read:

"SECTION 10. **Capital Improvement Projects.** The sum of \$31,116,000 appropriated in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars and are to be expended by the judiciary).

Item No.	Program and Capital Project	Program ID	FY 1981-82	M O F	FY 1982-83	M O F	Total Biennium 1981-83	M O F
THE JUDICIAL SYSTEM								
Support Services								
	Administrative Director Services	JUD 201						
1	Honolulu District Court, Oahu							
	Design, construction and furnishing of facilities for the Honolulu District Court within the State Capitol Complex.							
	Design		71				71	
	Construction		125				125	
	Equipment		1,154				1,154	
	Total Funding		1,350C			C	1,350C	
2	State Judiciary Complex, Oahu							
	Design and furnishing for the State Judiciary Complex. Also includes land acquisition of site adjacent to State Judiciary Complex (Reed block TMK: 2-1-30). Purchase of parcel to be utilized for future expansion of the State Judiciary Complex or state office							

Item No.	Program and Capital Project	Program ID	FY 1981-82	M O F	FY 1982-83	M O F	Total Biennium 1981-83	M O F
	building.							
	Land Acquisition				4,000		4,000	
	Design		92				92	
	Equipment				612		612	
	Total Funding		92C		4,612C		4,704C	
3	Wailuku Judiciary Complex, Maui							
	Land acquisition, design, construction and furnishing of a Judiciary Complex consisting of the Wailuku District Court and Second Circuit Court in the Wailuku Civic Center.							
	Land Acquisition				75		75	
	Design		221		153		374	
	Construction		11,809		9,209		21,018	
	Equipment		41		124		165	
	Total Funding		12,071C		9,561C		21,632C	
4	Remodeling and Upgrading Judiciary Buildings, Statewide							
	Design, construction and furnishing of equipment to remodel and upgrade Judiciary buildings statewide.							
	Design		35		43		78	
	Construction		125		139		264	
	Equipment		5		47		52	
	Total Funding		165C		229C		394C	
5	Advance Planning Judiciary							
	Advance planning for statewide Judiciary facilities planning projects.							
	Plans		10				10	
	Total Funding		10C				10C	
6	Renovation of Ali'iolani Hale, Phase II, Oahu							
	Design for the renovation of Ali'iolani Hale to accommodate the Supreme Court Clerk's Office, Law Library and the Administrative Director's Office.							
	Design		670				670	
	Total Funding		670C				670C	
7	South Kohala District Court, Hawaii							
	Construction and furnishing of the South Kohala District Court in the Waimea Civic Center.							
	Construction		560				560	
	Equipment		37				37	
	Total Funding		597C				597C	
8	Renovation of Lahaina District Court, Maui							

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Item No.	Program and Capital Project	Program ID	FY		Total Biennium	
			1981-82	M O F	1982-83	M O F
	Renovation and furnishing of the Lahaina Courthouse to accommodate the District Court.					
	Design				89	89
	Construction		318			318
	Equipment		18			18
	Total Funding		336C		89C	425C
9	Molokai District Court, Molokai					
	Design, construction and furnishing of the District Court in the Kaunakakai Civic Center.					
	Design		49			49
	Total Funding		49C			49C
10	Renovation of Old Kona Hospital, Hawaii					
	Design, construction and furnishing for the renovation of a portion of the Old Kona Hospital for court and office use. Includes the construction of a parking lot.					
	Design				50	50
	Construction				800	800
	Equipment				50	50
	Total Funding				900C	900C
11	Renovation of Kapuaiwa Building, Oahu					
	Design for the renovation of the Kapuaiwa Building to accommodate the Intermediate Court of Appeals.					
	Design				54	54
	Total Funding				54C	54C
12	Ali'iolani Hale, Exterior Renovation, Oahu					
	Repair and restoration of the exterior of Ali'iolani Hale.					
	Design				131	131
	Total Funding				131C	131C
13	Judiciary Security Training Facility, Oahu					
	Land acquisition, design and construction of a Judiciary security training facility.					
	Land Acquisition				10	10
	Design				10	10
	Construction				180	180
	Total Funding				200C	200C"

SECTION 6. Section 11, Act 2, Session Laws of Hawaii 1981, First Special Session, is amended to read:

“SECTION 11. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal [biennium 1981-83] year 1981-82 and that all appropriations made to be expended in fiscal year 1982-83 which are unencumbered as of June 30, 1984, shall lapse as of that date.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 1982.

(Approved June 17, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 268**

H.B. NO. 2559-82

**A Bill for an Act Making an Appropriation for Payment of Settlement Between the State of Hawaii and Dillingham Corporation dba Hawaiian Dredging and Construction Company.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The purpose of this Act is to provide for the payment of a settlement negotiated by the State of Hawaii and Dillingham Corporation, doing business as Hawaiian Dredging and Construction Company, involving a suit (Civil No. 59357) filed by Dillingham Corporation against the State of Hawaii. The suit seeks damages of more than 1.6 million dollars. The claims alleged in the lawsuit are based on a contract awarded to Hawaiian Dredging and Construction Company for a federal-aid highway construction project on Oahu, the Waikakalaua Stream bridge of the H-2 freeway.

The departments of the attorney general and transportation have evaluated the claims and consider the settlement to be in the best interest of the State. The evaluation included consideration of the projected cost of defending the claims and the State's potential exposure to liability.

The state department of transportation will apply to the Federal Highway Administration for federal participation or reimbursement on the settlement amount of \$520,000.

**SECTION 2.** There is appropriated the sum of \$520,000 out of general obligation bond funds of the State of Hawaii, with debt service costs to be paid out of the state highway fund. This appropriation shall be used to settle the pending claims in Civil No. 59357 involving construction project Interstate Route H-2, Waiakakalaua Stream bridge, F.A.I.P. No. I-H2-1(10):6.

**SECTION 3.** The sum appropriated shall be expended by the department of

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transportation for the purposes of this Act. As of the close of business on June 30, 1983, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1982.)

ACT 269

H.B. NO. 2778-82

A Bill for an Act Relating to Exceptional Children.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this bill is to amend section 301-27 to reflect the department of health's responsibility for certain related services and to identify more specifically the role of the department of health in ensuring the provision of these services, such as occupational therapy, physical therapy, school health services, medical services for diagnostic or evaluative purposes, and mental health. This would greatly emphasize responsibility of the State to implement PL 94-142 and the role of the state educational agency providing these services to the exceptional child. This would also aid in clearing the uncertainty on specific roles each agency plays in support of the handicapped child.

SECTION 2. Section 301-27, Hawaii Revised Statutes, is amended to read:

**“§301-27 [Physiotherapist and occupational therapist to be provided.] Occupational therapy services, physical therapy services, school health services, mental health services, and medical services for diagnostic or evaluative purposes. The department of health [may, in cooperation with the department of education, provide one physiotherapist and one occupational therapist] shall, within the funds available, be responsible for the related services of occupational therapy, physical therapy, school health, mental health, and medical services for evaluation or diagnostic purposes, and shall, within the funds available provide for those exceptional children needing such services who attend public school in the [primary and elementary grades within the schools of the city and county of Honolulu needing such services,] State of Hawaii. [and, in that connection, may accept funds from private sources and divert any funds appropriated to the department of health whenever in the opinion of the department such funds can be used to better advantage by being so diverted.] The department of health shall work in cooperation with the department of education to implement this section. The procedures to implement this section shall be in accordance with the department of health's rules and regulations.”**

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1982.)

ACT 270

H.B. NO. 2866-82

A Bill for an Act Relating to Real Estate Brokers and Salesmen.



*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 467-8, Hawaii Revised Statutes, is amended to read as follows:

**“§467-8 Prerequisites for licensing.** No license hereunder shall be issued to:

- (1) Any person who does not satisfy the requirements set forth in section 467-9.5;
- [(1)] (2) Any person unless he has demonstrated by passing with a grade satisfactory to the real estate commission a written examination [given by it and] appropriate to the license sought that he has a reasonable knowledge of (A) estates, interests, and rights in real property, (B) the documents or acts or occurrences by which such property is transferred or otherwise affected, (C) the rights and duties of an agent, (D) the laws of the State relating to real estate brokers and salesmen, and (E) such other subjects as the commission determines to be essential for the protection of the general public in its real estate transactions;
- [(2)] (3) Any person who does not possess a good character and reputation for honesty, truthfulness, and fair dealing;
- [(3)] (4) Any copartnership unless every member of the copartnership who actively participates in the real estate brokerage business thereof holds a real estate broker's license;
- [(4)] (5) Any corporation unless the real estate brokerage business thereof is under the direct management of an officer or employee thereof and unless the officer or employee holds a real estate broker's license.”

SECTION 2. Section 467-9.5, Hawaii Revised Statutes, is amended to read as follows:

**“§467-9.5 Prerequisites for written examination.** No person [hereunder] shall be eligible for the [commission's] written examination unless:

- (1) The person is a legal resident of the State and is of the age of majority;
- (2) The person applying for the real estate salesman examination has satisfactorily completed a course on real estate principles or its equivalent, approved or accredited by the real estate commission;
- (3) The person applying for the real estate broker examination has satisfactorily completed a course for real estate brokers, or its equivalent, approved or accredited by the real estate commission;
- (4) The person applying for real estate broker examination (A) has previously been licensed as a Hawaii real estate salesman, and (B) has previously been engaged in the real estate business as a licensed Hawaii real estate salesman for a period of two years on a full-time basis, or has had other experience or education in the selling or management of real estate, which, in the opinion of the commission, is equivalent to two years' experience to be established by detailed explanatory affidavit or in such other manner as may be determined by the commission.

Each person shall certify on the application for examination that the prerequisites set forth above have been or will be satisfied prior to the date of examination. The examination score of any person who has taken the written examination without having satisfied the prerequisites set forth above shall be voided.”

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SECTION 3. Section 467-9.6, Hawaii Revised Statutes, is amended to read as follows:

**“§467-9.6 Examination fee.** Every applicant for a real estate examination shall file an application with either the real estate commission or the testing service agency designated by the real estate commission pursuant to rules of the commission to provide the testing service. The application shall be in a form prescribed by the commission and [only applicants satisfying the prerequisites for written examination, as provided for in section 467-9.5 and the rules of the commission, shall be admitted to the examination.] shall include a certification statement that the applicant has fulfilled or will fulfill by the date of the examination, the prerequisites for written examination. Every application shall be accompanied by an examination fee as determined by the commission by rules adopted pursuant to chapters 26 and 91. Applicants may apply for real estate licenses in such manner as prescribed by the commission.”

SECTION 4. Section 467-19, Hawaii Revised Statutes, is amended to read as follows:

**“§467-19 Management of fund.** (a) The sums received by the real estate commission for deposit in the real estate recovery fund shall be held by the commission in trust for carrying out the purpose of the real estate recovery fund. The real estate commission, as the trustee of the recovery fund, shall be authorized to expend such funds to retain private legal counsel to represent the commission in any action involving the real estate recovery fund. These funds may be invested and reinvested in the same manner as funds of the state employees retirement system, and the interest from these investments shall be deposited to the credit of the real estate education fund, and which shall be available to the commission for educational purposes, which is hereby created.

(b) Educational purposes as used in subsection (a) shall include those purposes to promote the advancement of education and research in the field of real estate for the benefit of the public and those licensed under the provisions of this chapter and the improvement and more efficient administration of the real estate industry. The commission, in its discretion, may use any and all monies in the real estate education fund consistent with the above.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 17, 1982.)

ACT 271

H.B. NO. 2879-82

A Bill for an Act Relating to Fees and Charges Collected from the Users of School Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The department of education presently lacks statutory authority to deposit the fees collected from the users of school buildings,

facilities, grounds, and equipment into a separate fund and expended under such rules as the board of education may prescribe. In the absence of statutory authority, the department of education is required to deposit these moneys into the state treasury as general fund realizations.

SECTION 2. Section 298-23, Hawaii Revised Statutes, is amended to read as follows:

“§298-23 Use of school facilities for recreational and community purposes. All public school buildings, facilities, and grounds shall be available for general recreational purposes, and for public and community use, whenever these activities do not interfere with the normal and usual activities of the school, and its pupils, concerned. Any law or portion of any law to the contrary notwithstanding, the department of education shall issue such rules [and regulations] as are deemed necessary to carry out the purposes of this section and shall be empowered to issue licenses, revocable permits, concessions, or rights of entry to school buildings and grounds for such periods of use as deemed appropriate by the department. All such dispositions, including those in excess of fourteen days, need not be approved by the board of land and natural resources; provided[, however,] that approval by the board of land and natural resources shall be required when such dispositions are for periods in excess of a year. The department of education may assess and collect fees and charges from the users of school buildings, facilities, grounds, and equipment. The fees and charges shall be deposited into a separate fund and expended by the department under rules as may be adopted by the board of education.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1982.)

## ACT 272

H.B. NO. 725

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 209, Hawaiian Homes Commission Act, 1920, is amended to read:

“§209. Successors to lessees. [(1)] (a) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee[, ] who are (1) at least one-quarter Hawaiian, husband [and], wife, or children, or (2) native Hawaiian, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, — the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. [Such person or persons must be qualified to be a lessee of Hawaiian home lands: provided, that] The Hawaiian

blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under the provisions of section 3 of the Act of May 16, 1934 (48 stat. 777, 779), as amended[: provided, further, that]. In all cases such person or persons need not be twenty-one years of age. Such designation must be in writing, [must] may be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest such interests in the successor or successors so named.<sup>1</sup>

[In the absence of such a designation as approved by the department, the department shall select from the relatives of the lessee in order named above as limited by the foregoing paragraph one or more persons who are qualified to be lessees of Hawaiian home lands, except as hereinabove provided, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The department may select such a successor or successors after the death of the lessee, and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.]

In case of the death of any lessee, except as hereinabove provided, who has failed to specify a successor or successors as approved by the department, the department may select from only the following qualified relatives of the decedent:

(1) Husband or wife;

(2) If there is no husband or wife, then the children.

The rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no [such relative] designated successor or successors, husband, wife, or children qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department is authorized to lease such land to a native Hawaiian [or Hawaiians] as provided in this Act.

Upon the death of a lessee leaving no [such relative] designated successor or successors, husband, wife, or children qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, from the deceased lessee or the previous lessee. Such payment shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved.

Such appraisal shall be made by three appraisers, one of which shall be named by the department, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers hereinbefore mentioned.

[(2)] (b) After the cancellation of a lease by the department in accordance with the provisions of sections 210 and 216 of this title, or the surrender of a lease by a lessee, the department is authorized to transfer the lease or to issue a new lease to

any qualified Hawaiian regardless of whether or not he is related in any way by blood or marriage to the previous lessee.

[(3)] (c) Should any successor or successors to a tract be a minor or minors, the department may appoint a guardian therefor, subject to the approval of the court of proper jurisdiction. Such guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold: provided, that said guardian shall, in so representing such successor or successors, comply with the provisions of this title and the stipulations and provisions contained in the lease, except that said guardian [may] need not be a native Hawaiian as defined in section 201 of this title.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon the approval of the Governor of the State of Hawaii with the consent of the United States.

(Approved June 18, 1982.)

**Note**

1. Wrong version of section appears to be amended.

**ACT 273**

H.B. NO. 2163-82

A Bill for an Act Relating to the Executive Departments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to conform Section 26-17, Hawaii Revised Statutes, with Section 202 of the Hawaiian Homes Commission Act, 1920, as amended.

SECTION 2. Section 26-17, Hawaii Revised Statutes, is amended to read: “**§26-17 Department of Hawaiian home lands.** The department of Hawaiian home lands shall be headed by an executive board to be known as the Hawaiian homes commission.

The commission shall [consist of seven members selected] be composed of eight members. The appointment, tenure, and removal of the members and the filling of vacancies on the commission shall be in accordance with section 26-34 and section 202(a) of the Hawaiian Homes Commission Act of 1920, as amended. The governor shall appoint the chairman of the commission from among the members[.] thereof.

The commission may delegate to the chairman such duties, powers, and authority, or so much thereof as may be lawful or proper, for the performance of the functions vested in the commission.

The chairman of the board shall serve in a full time capacity and shall perform such duties, and exercise such powers and authority, or so much thereof as may be delegated to him by the board.

The department shall administer the Hawaiian Homes Commission Act of 1920 as set forth in the Constitution of the State and by law.

The functions and authority heretofore exercised by the Hawaiian homes

commission as heretofore constituted are transferred to the department of Hawaiian home lands established by this chapter.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1982.)

ACT 274

H.B. NO. 2560-82

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend the Hawaiian Homes Commission Act, 1920, as amended, to improve the department of Hawaiian home lands' agricultural programs by increasing the ceiling on farm loans to lessees and by offering a wider variety of services and loans to our homestead farmers and ranchers.

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read:

“(a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

(1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

- (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
- (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called “additional receipts,” shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-

- two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979.
- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
  - (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
  - (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
  - (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$15,000 to lessees for repairs to their existing homes and for additions to such homes.
  - (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans [not] in [excess of \$35,000] the amount provided in section 215 for the development and operation of a farm, ranch, or aquaculture operation or ninety per cent of the cost of the project, whichever is less, to lessees of agricultural tracts, pastoral tracts, and tracts used for aquaculture leased under section 207 of this Act. In addition to the purposes enumerated in section 214(a) such loans may be made for the following purposes:
    - (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
    - (B) The liquidation of indebtedness incurred for any of the foregoing

- purposes relating to farm loans aged less than five years;
- (C) The payment of normal and reasonable living expenses of a full-time farmer;
- (D) The planning, layout, and installation of soil and water conservation practices; or
- (E) For emergency purposes to provide relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophies, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes.

In addition to the conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency.

- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account, shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
  - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
  - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
  - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
  - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
  - (E) For appraisals, studies, consultants (architects, engineers)<sup>1</sup> or any other staff services including those in section 202(b) required to implement, develop, and operate these projects.

The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may



be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000."

SECTION 3. Section 215, Hawaiian Homes Commission Act, 1920, as amended, is amended to read:

"§215. **Conditions of loans.** Except as otherwise provided in section 213(a)(5), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural, mercantile, or aquacultural cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract loan:

- (1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$50,000, for the development and operation of a farm, ranch, or aquaculture operation shall not exceed [~~\$35,000,~~] \$50,000, except that when loans are made to an agricultural or [~~aquaculture~~] aquacultural cooperative association for the purposes stated in section 214(a)(4), the loan limit shall be determined by the department on the basis of the proposed operations and the available security of the association, and for the development and operation of a mercantile establishment shall not exceed the loan limit determined by the department on the basis of the proposed operations and the available security of the lessee or of the organization formed and controlled by lessees; provided that upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall make the payment provided for by section 209(a), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided further that in case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to paragraph (3).
- (2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semiannual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent a year for loans made directly from the Hawaiian home loan fund, or at the rate of two and one-half per cent or higher as established by law for other loans, payable periodically or upon demand by the department, as the department may determine. The payment of any installment due shall be postponed in

whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.

- (3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1). In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1). The department may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon the loan, or postpone the payment of any installment thereon, wholly or in part, until such later dates as it deems advisable. Such postponed payments shall, however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems it advisable and for the best interests of the lessees, write off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write off and cancellation shall be made only after an appraisal of all improvements and growing crops or improvements and aquaculture stock, as the case may be, on the tract involved, such appraisal to be made in the manner and as provided for by section 210.5. In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to paragraph (1).
- (4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.
- (5) The borrower or the successor to his interest shall comply with such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the contract of loan.
- (6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with section 209 of this Act in respect to the lease of any tract.
- (7) Whenever the department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the department of all moneys due or to become due to such borrower by reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the department shall be sufficient ground for cancellation of the borrower's lease or interest therein."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 18, 1982.)

**Note**

1. Prior to amendment, a “,” appeared here.

**ACT 275**

S.B. NO. 2201-82

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 219, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

“§219. **Agricultural and aquacultural experts.** The department is authorized to employ agricultural and aquacultural experts at such compensation and in such number as it deems necessary. [The annual expenditures for such compensation shall not exceed \$6,000.] It shall be the duty of such agricultural and aquacultural experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising and aquaculture operations and such other matters as will tend successfully to accomplish the purposes of this title.”

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved June 18, 1982.)

**ACT 276**

H.B. NO. 791

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of “eligible borrower” to read:

““Eligible borrower” means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least of legal age;
- (4) Does not himself or herself, or whose spouse if the person is married, own any interest in [any residential property] a principal residence within or without the State and who has not owned [such property] a principal residence within the three years immediately prior to the application for an eligible loan under this chapter;
- (5) Has never before obtained a loan under this part; and
- (6) Meets other qualifications as established by rules adopted by the

authority.”

SECTION 2. Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of “eligible loan” to read:

“Eligible loan” means a loan to an eligible borrower for the [purchase] permanent financing of a [housing] dwelling unit, including a condominium unit; provided that the property financed is located in the State, will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the authority.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval and is repealed on July 1, 1984.

(Approved June 18, 1982.)

ACT 277

H.B. NO. 2113-82

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** In Act 111, Session Laws of Hawaii 1981, the legislature found that the health and general welfare of the people of the State required that the people of this State have safe and sanitary rental housing accommodations available at affordable rents; that there existed a grave shortage in the number of affordable rental housing accommodations for low- and moderate-income families and individuals in the State; and that it was essential that owners of rental housing accommodations to be provided with appropriate additional means to assist in reducing the cost of rental housing accommodations to the people of the State.

The purpose of this Act is to assist such owners in maintaining the rentals at levels affordable by families and individuals of low and moderate income by providing such owners with rental assistance payments which, with rentals received by tenants of low and moderate income, will provide such owners with limited but acceptable rates of return on their investments in rental housing accommodations. The legislature finds and declares that assisting such owners by entering into contracts with them which provide for rental assistance payments is a valid public purpose and in the public interest.

SECTION 2. **Appropriation.** There is appropriated out of the general revenues of the State of Hawaii, the sum of \$2,000,000 to be paid into the rental assistance fund created in section 356-303, Hawaii Revised Statutes. The sum appropriated by this Act shall be expended by the Hawaii housing authority for the purposes of the rental assistance fund. Any unexpended or unencumbered balance of the appropriation made by this Act as of the close of business on June 30, 1983 shall lapse into the general fund.

SECTION 3. **Effective date.** This Act shall take effect upon its approval.

(Approved June 18, 1982.)

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of "eligible borrower" and "housing loan programs" to read:

"Eligible borrower" means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least of legal age;
- (4) Does not himself or herself, or whose spouse if the person is married, own any interest in any residential property within or without the State and who has not owned such property within the three years immediately prior to the application for an eligible loan under this [chapter;] part, except this requirement shall not apply to any eligible loan for a targeted area residence as defined in the Mortgage Subsidy Bond Tax Act of 1980, Public Law 96-499, which residence is to replace a housing unit which has been declared structurally unsalvageable by a governmental board or agency having the power to make such a declaration;
- (5) Has never before obtained a loan under this part; and
- (6) Meets other qualifications as established by rules adopted by the authority.

"Housing loan programs" includes all or any part of the loan to lenders program, the purchase of existing loans program, the advance commitments program, and the [eligible loan and eligible project] loan funding [program] programs authorized under this part."

SECTION 2. Section 356-206, Hawaii Revised Statutes, is amended to read:

"**§356-206 Rules; eligible borrower.** (a) The authority shall establish the qualifications of an eligible borrower, and may consider, but not be limited to, the following:

- (1) The proportion of income spent for shelter;
- (2) Size of the family;
- (3) Cost and condition of housing available to the total housing market; and
- (4) Ability of the person to compete successfully in the normal housing market and to pay the amounts on which private enterprise is providing loans for safe, decent, and sanitary housing in the State.

(b) The adjusted household income of an eligible borrower shall not exceed one hundred twenty-five per cent of the median annual income for households of four persons in the State as most recently published by the United States Department of Health[, Education and Welfare] and Human Services except that the adjusted household income of a family of one shall not exceed one hundred per cent of such median income. As used in this subsection, "adjusted household income" means the total income, before taxes and personal deductions, received by all members of the eligible borrower's household, including, but not limited to, wages,

social security payments, retirement benefits, unemployment benefits, welfare benefits, interest and dividend payments, and such other income as provided by rules adopted by the authority under chapter 91, but not including business deductions.

(c) The assets of an eligible borrower shall not exceed an annual amount equal to the adjusted household income for an eligible borrower as set forth in subsection (b). As used herein, assets include, but [is] are not limited to, all cash, securities, and real and personal property, less any outstanding liabilities secured by such assets and less twenty-five per cent of a [down payment] downpayment required for the purchase of property financed by an eligible loan.

(d) For the purpose of determining the qualification of an eligible borrower for an eligible improvement loan:

(1) The housing unit for which the eligible improvement loan is to be made and the property on which the housing unit is situated shall not be included in the calculation of the eligible borrower's assets; and

(2) The mortgage secured by the housing unit and property shall not be included in the calculation of the eligible borrower's liabilities.

(e) For the purpose of determining the qualification of an eligible borrower for an eligible loan for a targeted area residence:

(1) The housing unit being replaced and the property on which the housing unit is situated shall not be included in the calculation of the eligible borrower's assets; and

(2) The mortgage secured by the housing unit and the property shall not be included in the calculation of the eligible borrower's liabilities."

SECTION 3. Section 356-212, Hawaii Revised Statutes, is amended to read: "**§356-212 Revenue bonds; payment and security.** (a) The revenue bonds shall be payable from and secured by the revenues derived from the benefits of the housing loan programs for which the revenue bonds are issued, including:

(1) Any payment made for eligible loans, eligible improvement loans, or eligible project loans or other agreements entered into for the housing loan programs;

(2) Revenues derived from insurance proceeds;

(3) Reserve accounts and earnings thereon; and

(4) Revenues resulting from loans to mortgage lenders or from the payment on account of principal of and interest on loans purchased from mortgage lenders.

(b) The authority may pledge any revenues derived from the housing loan programs financed from the proceeds of the revenue bonds to the punctual payment of the principal, interest, and redemption premiums, if any, on the revenue bonds.

(c) The revenue bonds may be additionally secured by the pledge or assignment of the loans and other agreements or any note or other undertaking, obligation, or property held by the authority to secure the loans.

(d) Any pledge made by the authority shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the authority from and after the time that a financing statement with respect to the revenues, moneys, or property so pledged and thereafter received shall be filed with

the bureau of conveyances. Upon such filing, the revenues, moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. This section shall apply to any financing statement heretofore or hereafter filed with the bureau of conveyances with respect to any pledge made to secure revenue bonds issued under this part."

SECTION 4. Section 356-231, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

"(a) The authority shall establish procedures for:

- (1) The submission of requests or the invitation of proposals for loans to mortgage lenders;
  - (2) The purchase of existing loans by auction, invitation of tenders, or negotiation;
  - (3) The making of advance commitments to purchase and the purchasing of eligible loans, eligible improvement loans, or eligible project loans to be made by mortgage lenders by auction, invitation of tenders, or negotiation; and
  - (4) Loan applications made through mortgage lenders to eligible borrowers or qualified sponsors.
- (b) The authority shall establish standards and requirements for:
- (1) The allocation of loans to mortgage lenders;
  - (2) The allocation of funds to purchase existing loans from mortgage lenders;
  - (3) The making of advance commitments and allocation of funds to purchase eligible loans, eligible improvement loans, or eligible project loans from mortgage lenders; and
  - (4) The participation by mortgage lenders as originators and processors of eligible loans,<sup>1</sup> eligible improvement loans, or eligible project loans on half<sup>2</sup> of the authority."

SECTION 5. Section 356-235, Hawaii Revised Statutes, is amended by amending the section heading and subsection (a) to read:

**"§356-235 Housing loan programs; evidence of eligible loan, eligible improvement loan, or eligible project loan.** (a) Each mortgage lender who participates in any housing loan program shall submit evidence, as deemed satisfactory by the authority, that eligible loans,<sup>3</sup> eligible improvement loans, or eligible project loans have been made from the proceeds of the revenue bonds."

SECTION 6. Section 356-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The authority may make loans to mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the authority to make eligible loans, eligible improvement loans, and eligible project loans in an aggregate principal amount substantially equal to the amount of the loan."

SECTION 7. Section 356-251, Hawaii Revised Statutes, is amended to read:

**“§356-251 Purchase of existing loans program.** (a) The authority may contract with a mortgage lender to purchase, in whole or in part, existing loans, whether or not eligible loans[.], eligible improvement loans, or eligible project loans. The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds, including, but not limited to, provisions requiring the:

- (1) Repurchase of the loans, in whole or in part, by mortgage lenders at the option of the authority;
- (2) Payments of premiums, fees, charges, or other amounts by mortgage lenders to provide a reserve or escrow fund for the purposes of protecting against loan defaults; and
- (3) Guarantee by, or for recourse against, mortgage lenders, with respect to defaults on these loans of the authority.

(b) The authority shall require as a condition of each purchase of existing loans from a mortgage lender that the mortgage lender proceed to make and disburse eligible loans, eligible improvement loans, or eligible project loans in an aggregate principal amount substantially equal to the amount of the proceeds from the purchase by the authority of loans therefrom.”

SECTION 8. Section 356-261, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The authority may contract with a mortgage lender for the advance commitment to purchase eligible loans, eligible improvement loans, or eligible project loans.”

SECTION 9. Section 356-271, Hawaii Revised Statutes, is amended by amending the section heading and subsection (a) to read:

**“§356-271 [Eligible loan and eligible project loan funding program.] Loan funding programs.** (a) The authority may contract with mortgage lenders to fund eligible loans and eligible improvement loans and may directly make or contract with mortgage lenders to fund eligible project loans.”

SECTION 10. Section 356-201, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read:

““Eligible improvement” means alterations, repairs, or improvements to an existing housing unit which substantially protect or improve the basic livability of the unit.

“Eligible improvement loan” means a loan to finance an eligible improvement to the owner of the housing unit, which may be a condominium unit, where the eligible improvement is to be made; provided that the owner meets the requirements of an eligible borrower, except that the requirement of paragraph (4) set forth in the definition of “eligible borrower” need not apply, the unit to be financed is located in the State, the unit will be occupied as the principal place of residence of the borrower, and meets other requirements as established by rules adopted by the authority.”

SECTION 11. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to read:



**“§356-209 Rules; eligible improvement loans.** (a) The authority shall establish requirements for property financed by an eligible improvement loan, and may consider, but not be limited to, the location, age, condition, value, and other characteristics of the property.

(b) The authority shall establish restrictions on the terms, maturities, interest rates, collateral, and other requirements for eligible improvement loans.

(c) All eligible improvement loans made shall comply with applicable state and federal laws.”

**SECTION 12. Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the authority pursuant to part III, chapter 39, Hawaii Revised Statutes, and part II, chapter 356, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$9,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the housing loan programs in part II of chapter 356, Hawaii Revised Statutes, relating to the funding or purchasing of eligible improvement loans.

**SECTION 13. Severability.** If any part, section, sentence, clause, phrase, word, or punctuation of this Act, or the application thereof to any person or transaction or circumstance is held invalid, the invalidity does not affect any other part, section, sentence, clause, phrase, word, or punctuation of this Act or the application thereof to other persons or transactions or circumstances which can be given effect without the invalid part, section, sentence, clause, word, or punctuation or application, and to this end the parts, sections, sentences, clauses, words, punctuation of this Act are severable.

**SECTION 14.** Statutory material to be repealed is bracketed. New material is underscored.<sup>4</sup>

**SECTION 15.** This Act shall take effect on July 1, 1982 and is repealed on December 31, 1983.

(Approved June 18, 1982.)

#### Notes

1. Should be underscored.
2. So in original.
3. Should be underscored.
4. Edited pursuant to HRS §23G-16.5.

**ACT 279**

**H.B. NO. 3121-82**

**A Bill for an Act Relating to State and County Housing Loan Programs.**

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature hereby finds and determines that the principal amount of bonds which may be issued under the federal Mortgage Subsidy Bond Tax Act of 1980 shall be allocated for calendar years 1982 and 1983, each as follows:

State of Hawaii (Hawaii Housing Authority)	\$100,000,000
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**ACT 280**

City and County of Honolulu	\$ 58,000,000
County of Hawaii	\$ 20,000,000
County of Kauai	\$ 8,000,000
County of Maui	\$ 14,000,000

provided that the aggregate amount allocated shall not exceed \$200 million for any one calendar year.

SECTION 2. Any county may by resolution of its legislative body assign to the Hawaii Housing Authority its bond allocation for a specified calendar year or years.

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1982.)

**ACT 280**

**H.B. NO. 1974-82**

A Bill for an Act Relating to Public Purchasing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide employment opportunities for handicapped individuals and minimize their dependence upon public assistance and costly institutionalization through productive gainful employment by assuring an expanded and constant market for products and services through state and county purchase of products and services from rehabilitation facilities operating workshops for handicapped individuals.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . PRODUCTS AND SERVICES OF  
HANDICAPPED INDIVIDUALS**

**§103- Definitions.** For the purpose of this part:

- (1) “Direct labor” means all work required for preparation, processing, or packing of goods or performance of services, but not work relating to supervision, administration, inspection, or shipping;
- (2) “Fair market price” means the price of a product or service paid by a willing buyer to a willing seller, which price is reasonably comparable to prices on the open market;
- (3) “Handicapped individual” means any person who is so severely incapacitated by any physical or mental disability that the person cannot engage in normal competitive employment because of the disability;
- (4) “Public agency” means any agency of the state or county governments; and
- (5) “Qualified rehabilitation facility” means a nonprofit rehabilitation

facility for the handicapped which:

- (A) Is organized and incorporated under the laws of the United States or *this State; and located in the State;*
- (B) Is operated in the interest of and employs handicapped individuals;
- (C) Does not inure any part of its net income to any shareholder or other individual;
- (D) Complies with all applicable occupational health and safety standards required by the federal, state, and county governments; and
- (E) Is certified as a sheltered workshop or work activity center by the United States Department of Labor, and abides by the state department of labor and industrial relations' rules relating to the employment of handicapped individuals.

**§103- Purchase by public agency.** (a) Any public agency without advertising or calling for bids may purchase products and services provided by qualified rehabilitation facilities serving the handicapped which have indicated an interest in supplying such goods and services, and on an equitable basis may apportion the business among the interested facilities; provided that such goods and services meet the specifications and needs of the purchasing agency and are purchased at a fair market price as determined by the appropriate public agency; and provided further that such facilities comply with the following:

- (1) Meet all of the requirements as a qualified rehabilitation facility under section 103- (5); and
- (2) Maintain a handicapped-to-nonhandicapped employee ratio equal to or in excess of three-to-one for work hours of direct labor at all times on the work contracted.
- (b) The purchasing department or agent of a public agency shall:
  - (1) Receive and review proposals submitted by qualified rehabilitation facilities to sell products and services, and determine if they are suitable for purchase by the agency;
  - (2) Negotiate the conditions and terms for the purchase, including the price of the product or service, between the agency and the qualified rehabilitation facility; provided that the price of the product or service shall not exceed the fair market price and there is assurance that the qualified rehabilitation facility proposal is in compliance with all of the public agency's rules related to purchasing; and
  - (3) Ensure that any product or service purchased from a qualified rehabilitation facility shall not be placed on the Hawaii products list under section 103-42.

**§103- Qualified rehabilitation facility; proposal to sell products and services.** A qualified rehabilitation facility interested in selling products or services to a public agency, may submit a proposal to the agency containing the following information:

- (1) A description of the product or service;
- (2) The price of the product or service; and
- (3) Documents and information necessary to qualify as a qualified rehabilitation facility under section 103- (5)."

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

(Approved June 18, 1982.)

A Bill for an Act Relating to Marine Affairs Coordination.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 218, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§201- Powers and duties of the department of planning and economic development in marine affairs.** The department of planning and economic development shall:

- (1) Develop plans, including objectives, criteria to measure accomplishments of objectives, programs through which the objectives are to be attained, and financial requirements for the total and optimum development of Hawaii's marine resources, including plans, objectives and criteria for the expenditure of state matching funds for federally funded projects based on the needs and goals of the State of Hawaii;
- (2) Conduct systematic analysis of existing and proposed marine programs, evaluate the analysis conducted by the agencies of state government and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of the marine environment;
- (3) Assist those departments having interests in marine affairs, coordinate those activities which involve the responsibilities of multiple state agencies, and insure the timely and effective implementation of all authorized marine projects and programs;
- (4) Establish a continuing program for informing the federal government, other state governments, governments of nations with interests in the Pacific basin, private and public organizations involved in marine science and technology, and commercial enterprises of Hawaii's leadership potential as the center for marine affairs;
- (5) Coordinate the State's involvement in national and international efforts to investigate, develop and utilize the marine resources of the Pacific basin;
- (6) Develop programs to continuously encourage private and public marine exploration and research projects which will result in the development of improved technological capabilities in Hawaii; and
- (7) Formulate specific program and project proposals to solicit increased investment by the federal government and other sources to develop Hawaii's marine resources and coordinate the preparation and submission of program and project proposals of state agencies.

SECTION 3. All rights, powers, functions, duties, and positions of the office of the marine affairs coordinator are transferred to the department of planning and

economic development.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

SECTION 4. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the office of the marine affairs coordinator relating to the functions transferred to the department of planning and economic development shall be transferred with the functions to which they relate.

SECTION 5. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved June 18, 1982.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 282**

H.B. NO. 2348-82

A Bill for an Act Relating to Metal and Gem Dealers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and purpose.** The legislature finds that it is difficult to recover stolen jewelry due to the opportunities for disposition of such items through certain businesses. Usually the business does not even know the items were stolen. Accordingly, the legislature deems it necessary to provide an opportunity, through prompt action, for recovery of such items. Though other items are stolen, the legislature finds that jewelry, precious metals, and similar items are easily concealed through alteration, so as to make them unrecognizable and, therefore, unrecoverable. The legislature is aware that this measure will have some unavoidable adverse impacts on businesses required to comply with the provisions of this new chapter. However, consistent with the well established rule that the victim of a theft retains a right to the stolen item, it was found that such right would be and has been rendered useless by the easy availability of seemingly legitimate means to dispose of

such items. Despite the fact that recovery of a stolen item is an inherent business risk, it is not the intention of this legislation to interfere in those situations where one is, at best, a casual purchaser or seller of such items. Accordingly, the legislature has attempted to focus on what has been found to be the major problems in the recovery of stolen items.

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

**“CHAPTER  
METAL AND GEM DEALERS**

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

“Precious or semiprecious metal” means any of the less common and more valuable metals, including but not limited to gold, silver, platinum, and alloys thereof, without regard to their fineness, but excludes bullion and bullion type coins and bars.

“Precious or semiprecious gem” means any of the less common and more valuable stones, pearls, including but not limited to amethyst, diamond, emerald, jade, opal, ruby, sapphire, topaz, turquoise, and zircon, whether natural or synthetic, cut or polished.

“Dealer” means any person, firm, partnership, corporation, or other entity who engages in a business which includes the buying of previously owned precious or semiprecious metals or precious or semiprecious gems.

§ -2 **Record of transactions.** Every dealer, or the agent, employee, or representative of the dealer shall, immediately upon receipt of any precious or semiprecious metals or precious or semiprecious gems, record the following information, on a form prescribed by the chief of police in each county:

- (1) The name and address of the dealer;
- (2) The name, residence address, date of birth, and the age of the person from whom the precious or semiprecious metals or precious or semiprecious gems were received;
- (3) The date and time the precious or semiprecious metals or semiprecious gems are received by the dealer;
- (4) The signature of the person from whom the precious or semiprecious metals or precious or semiprecious gems were received;
- (5) The Hawaii drivers license number, or if the person does not possess a Hawaii drivers licence, the number of and description of any identification which bears a photograph of the person from whom the precious or semiprecious metals or precious or semiprecious gems were received;
- (6) A complete and accurate description of all precious or semiprecious metals and all precious and semiprecious gems received, including all markings, names, initials, and inscriptions; and
- (7) A reasonable estimate of the fineness and weights of the precious and semiprecious metals and precious and semiprecious gems received.
- (8) The price paid by the dealer for each item.

The copies of all completed forms required by this section shall be surrendered, upon request, to the chief of police of each county, or to his authorized representative.

§ -3 **Transactions by minors prohibited.** A dealer shall not receive or purchase any precious or semiprecious metals or precious or semiprecious gems from any person under the age of eighteen.

§ -4 **Minimum retention of items.** No dealer, his agents, employees, or representatives shall alter, melt, deface, break apart or dispose of or change the character or integrity of the precious or semiprecious metals or precious or semiprecious gems received or purchased for a period of ten working days after the purchase or possession by the dealer, whichever comes later and all precious and semiprecious metals and all precious or semiprecious gems received by the dealer, his agents, employees or representatives shall be retained by the dealer in the county where received or purchased or for a period of ten working days after the purchase or possession by the dealer, whichever comes later.

§ -5. **Inspections.** The chief of police of each county or his authorized representative may immediately inspect, during normal business hours or whenever the dealer or his agents or employees are otherwise present, any records required by this chapter and any items described in such records that the police reasonably believe are stolen goods.

§ -6. **Applicability.** Any dealer when transacting in precious or semiprecious metals or precious or semiprecious gems and which is otherwise licensed shall comply with the provisions of this chapter as a condition of its license except as to those statutory conditions of its license which are more restrictive.

§ -7. **Penalties.** Any dealer, or any agent, employee, or representative of a dealer who knowingly violates any of the provisions of sections -2, -3, -4, or who refuses to allow the inspection provided for in section -5, and any person who offers or records information which is required under section -2 that the person knows or has reason to know is false, shall be guilty of a misdemeanor. Any dealer, or any agent, employee or representative of a dealer who is convicted for a second violation of any provision of this chapter, shall in addition to the foregoing penalty, be permanently prohibited from engaging in the business of buying or selling of precious or semiprecious metals or precious or semiprecious gems.

§ -8. **Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

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

(Approved June 18, 1982.)

ACT 283

H.B. NO. 2838-82

A Bill for an Act Relating to the Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-12, Hawaii Revised Statutes, is amended as follows:

1. Subsection (a) is amended to read:

“(a) [At the request of the] The authority [the director of finance] may guarantee the top twenty-five per cent of the principal balance of real property mortgage loans of qualified single-family or multi-family housing; a maximum of one hundred per cent of the principal balance of real property mortgage loans of qualified single-family housing under section 213 of the Hawaiian Homes Commission Act; [the top twenty-five per cent] a maximum of one hundred per cent of the principal balance of real property mortgage loans of single-family and multi-family housing developed under self-help or shell housing programs; plus the interest due thereon, made to qualified borrowers by qualified private lenders; provided that at no time shall the State’s liability, contingent or otherwise, on such guarantees exceed \$10,000,000. For the purposes of this section, the term “self-help housing program” means development or conservation of housing in which prospective homeowners have contributed labor, materials, or real property; [which] provided that at least two-thirds of the participating homeowners are qualified by income for assistance under this chapter; and [which] provided further that the program is carried out under sponsorship of a nonprofit community organization. For the purposes of this section, the term “shell housing program” means development of housing which is habitable but unfinished and can be completed or expanded; provided that at least one hundred per cent of the participating homeowners are qualified by income for assistance under this chapter; and provided further that the program is carried out under sponsorship of a public nonprofit or private organization.”

2. Subsection (f) is amended to read:

“(f) In return for the [director of finance’s] authority’s guarantee, the private lender shall remit out of interest collected an insurance fee as may be established by the [director of finance, provided that this fee shall not be added to any amount which the borrower is obligated to pay.] authority. The funds remitted shall be placed in the state mortgage guarantee fund provided for in subsection (k).”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 for fiscal year 1982-1983, to be paid into the state mortgage guarantee fund created in section 359G-12(k), Hawaii Revised Statutes. The sum appropriated by this Act shall be expended by the Hawaii housing authority for the purposes of the fund.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1982.)



SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be designated section 46-15.2 and to read as follows:

**“§46-15.2 Housing; additional county powers.** In addition and supplemental to the powers granted to counties by section 46-15.1, any county shall have and may exercise any of the following powers:

- (1) To provide assistance and aid to persons of low and moderate income in acquiring housing by providing loans secured by a mortgage, including by acquiring such loans from private lenders for which such county has made advance commitment to acquire such loans, and to make and execute contracts with private lenders or a public agency for the origination and servicing of such loans and pay the reasonable value of such services;
- (2) In connection with the exercise of any powers granted under this section or section 46-15.1, to establish one or more loan programs and to issue bonds under chapter 47 or 49 to provide moneys to carry out such programs; provided that:
  - (A) If bonds are issued pursuant to chapter 49, the county may establish such qualifications as it deems appropriate;
  - (B) If bonds are issued pursuant to chapter 47, any loan program shall comply with the provisions of part II of chapter 356;
  - (C) If bonds are issued pursuant to chapter 49, any loan program established pursuant to this section shall be and constitute an “undertaking” under section 49-1 and the provisions of chapter 49 shall apply to such loan program to the extent applicable;
  - (D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and such other consultants as may be required in the judgment of the county and fix and pay their compensation from funds available to the county therefore;
  - (E) Notwithstanding any limitation otherwise established by law, with respect to the rate of interest on any loan made under any loan program established pursuant to this section, such loan may bear such rate or rates of interest per year as the county shall determine; provided no loan made from the proceeds of any bonds of the county shall be under terms or conditions which would cause the interest on such bonds to be deemed subject to income taxation by the United States of America;
  - (F) Notwithstanding any limitation otherwise established by law, with respect to the amount of compensation permitted to be paid for the servicing of loans made under any loan program established pursuant to this section, a county may fix such reasonable compensation as the county may determine;
  - (G) Notwithstanding the requirement of any other law, a county may establish such separate funds and accounts with respect to any loan program established pursuant to this section as such county may deem appropriate;
  - (H) Notwithstanding any provision of chapter 47 or 49, bonds issued to

finance a loan program established pursuant to this section may be sold at public or private sale at such price and bearing interest at such rate or rates per year, may be made redeemable before maturity at the option of the county, the holder, or both, at such price or prices and upon such terms and conditions, and may be issued in coupon or registered form, or both, all as the county may determine;

- (I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to finance a loan program established pursuant to this section and enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee whereby such trustee may be authorized to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county under the loans made from the proceeds of such bonds and to apply such revenues and receipts to the payment of the principal of, or interest on such bonds, or both. Any such trust indenture, trust agreement, indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county in order to secure such bonds. The county may pledge and assign to the trustee any agreements related to the loans financed from the proceeds of such bonds and the rights of the county thereunder, including the rights to revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of such bonds, or may elect to limit the functions the director of finance performs as such fiscal agent, and may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including, without limitation, the holding of such bonds and coupons which have been paid and the supervision and conduction or the destruction thereof in accordance with law;
- (J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to finance a loan program established pursuant to this section, or the revenues and receipts derived by the county under the loans made from the proceeds of such bonds, all as provided in subparagraph (G), the director of finance of such county may hold such proceeds or revenues and receipts, as the case may be, in a separate account in the treasury of the county, to be applied solely to the carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing such special purpose revenue bonds;

- (3) To acquire such policies of insurance and enter into such banking arrangements as such county may deem necessary in order to better secure bonds issued to finance a loan program established pursuant to this section; and
- (4) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 285

H.B. NO. 1988-82

A Bill for an Act Relating to Individual Housing Accounts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to authorize the establishment of individual housing accounts, along the same lines as individual retirement accounts, to encourage first-time home buyers to save money for a downpayment on a home. This Act permits a deduction from gross income of contributions to a trust account which is established for savings for a down payment on the first principal residence of the taxpayer.

SECTION 2. Chapter 235 of the Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**"§235- Individual housing accounts.** (a) There shall be allowed as a deduction from gross income the amount, not to exceed \$5,000, paid in cash during the taxable year by an individual taxpayer to an individual housing account established for the individual's benefit to provide funding for the purchase of the individual's first principal residence. The interest paid or accrued within the taxable year on the account shall not be included in the individual's gross income. For purposes of this section, the term "first principal residence" means a residential property purchased with the payment or distribution from the individual housing account which shall be owned and occupied as the only home by an individual who did not have any interest in, individually, or whose spouse did not have any interest in, if the individual is married, a residential property prior thereto.

In the case of a married couple filing separate returns, the sum of the deductions allowable to each of them for the taxable year shall not exceed \$5,000, for amounts paid in cash, excluding interest paid or accrued thereon.

The amounts paid in cash allowable as a deduction under this section to an individual for all taxable years shall not exceed \$25,000, excluding interest paid or accrued. In the case of married individuals having separate individual housing accounts, the sum of such separate accounts and the deduction under this section shall not exceed \$25,000, excluding interest paid or accrued thereon.

(b) For purposes of this section, the term "individual housing account" means a trust created or organized in Hawaii for the exclusive benefit of an individual, or, in the case of a married individual, for the exclusive benefit of the individual and spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

- (1) Contributions shall not be accepted for the taxable year in excess of \$5,000 or in excess of \$25,000 for all taxable years, exclusive of interest paid or accrued;
- (2) The trustee is a bank, a savings and loan association, or a credit union, chartered or supervised under federal or state law, whose accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any agency of this State or any federal agency established for the purpose of insuring accounts in these financial institutions. The financial institution must actively make residential real estate mortgage loans in Hawaii;
- (3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder which show all transactions in detail;
- (4) The entire interest of an individual or married couple for whose benefit the trust is maintained shall be distributed to the individual or couple not later than one hundred twenty months after the date on which the first contribution is made to the trust; and
- (5) Except as provided in subsection (f) in the case of a total disability or death, the trustee shall not distribute the funds in the account unless it (A) verifies that the money is to be used for the purchase of a first principal residence located in Hawaii, and provides that the instrument of payment is payable to the mortgagor, construction contractor, or other vendor of the property purchased; or (B) withholds an amount equal to ten per cent of the amount withdrawn from the account and remits this amount to the director within ten days after the date of the withdrawal. The amount so withheld shall be applied to the liability of the taxpayer under subsections (c) and (e).

(c) Any contributions paid or distributed out of an individual housing account shall be included in gross income by the individual for whose benefit the account was established for the taxable year in which the payment or distribution is received, unless the amount is used exclusively in connection with the purchase of the first principal residence in Hawaii for the individual for whose benefit the account was established.

(d) The transfer of an individual's interest in an individual housing account

to a spouse under a dissolution of marriage decree or under a written instrument incident to a dissolution of marriage shall not be considered a taxable transfer made by the individual, and the interest, at the time of the transfer, shall be treated as part of an individual housing account of the transferee, and not of the transferor. After the transfer, the account shall be treated, for purposes of this section, as maintained for the benefit of the transferee.

(e) If a distribution from an individual housing account to an individual for whose benefit the account was established is made and not used in connection with the purchase of the first principal residence in Hawaii for the individual, the tax liability of the individual under this chapter for the taxable year in which the distribution is received shall be increased by an amount equal to ten per cent of the amount of the distribution which is includable in the individual's gross income for the taxable year.

If, during any taxable year, the individual uses the account or any portion thereof as security for a loan, the portion so used shall be treated as if it had been distributed to that individual.

(f) If the individual for whose benefit the individual housing account was established purchases a residential property in Hawaii with the distribution from the individual housing account and thereafter sells in any manner or method or by use of any instrument conveying or transferring such residential property, the gross income of the individual under this chapter for the taxable year in which the residential property is sold, conveyed, or transferred, whichever is applicable, shall include an amount equal to the amount of the distribution from the individual housing account, and in addition, the tax liability of the individual shall be increased by an amount equal to ten per cent of the distribution from the individual housing account.

(g) No tax liability shall be imposed under this section if:

- (1) The payment or distribution is attributable to the individual dying or becoming totally disabled; or
- (2) Residential property subject to subsection (f) is sold due to the death or total disability of an individual or individual's spouse,

subject to the following:

An individual shall not be considered to be totally disabled unless proof is furnished of the total disability in the form and manner as the director may require.

Upon the death of an individual for whose benefit an individual housing account has been established, the funds in the account shall be payable to the estate of the individual; provided that if the account was held jointly by the decedent and a spouse of the decedent, the account shall terminate and be paid to the surviving spouse; or, if the surviving spouse so elects, such spouse may continue the account as an individual housing account. Upon the total disability of an individual for whose benefit an individual housing account has been established, the individual or the individual's authorized representative may elect to continue the account or terminate the account and be paid the assets; provided that if the account was held jointly by a totally disabled person and a spouse of such person, then the spouses or an authorized representative may elect to continue the account or terminate the account and be paid the assets.

(h) The trustee of an individual housing account shall make reports regard-

ing the account to the director and to the individual for whom the account is maintained with respect to contributions, distributions, and other matters as the director may require under rules. The reports shall be filed at a time and in a manner as may be required by rules adopted under chapter 91. A person who fails to file a required report shall be subject to a penalty of \$10 to be paid to the director for each instance of failure to file."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act upon its approval, shall apply to taxable years beginning after December 31, 1981.

(Approved June 18, 1982.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 286

H.B. NO. 2765-82

A Bill for an Act Relating to Public Schools Special Fees and Charges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 298-5, Hawaii Revised Statutes, is amended to read as follows:

**"§298-5 Public schools special fees and charges.** (a) No equipment, material, or other fees shall be assessed against any pupil in any school, except that the department of education may assess and collect special fees and charges from pupils for co-curricular activities and from pupils who negligently break, damage, lose, or destroy school books, equipment [and], or supplies. Any pupil found to be responsible for loss, destruction, breakage, or damage [to] of school books, which shall include library and textbooks, of equipment, or of supplies, shall make restitution to the school in any manner, including the payment by the pupil or the pupil's parents of the actual replacement costs [of the books].

(b) No pupil shall be required to make restitution in any manner, unless the pupil and the pupil's parents [and] or guardians have been notified and have been given an opportunity to be heard before the principal of the school on the charges that the pupil was responsible for the loss, destruction, breakage, or damage [to] of school books[.], equipment, or supplies.

(c) If the principal upon a hearing on the charges has reasonable cause to believe that the pupil is responsible for the loss, destruction, breakage, or damage [to] of school books, equipment, or supplies, he shall design a restitution program which shall be submitted to the pupil[, his or her] and the pupil's parents or guardian for agreement in writing.

If restitution is made in this fashion, then all records and documents regarding the charges and hearing shall be destroyed. No information about the charges, the hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall preserve all the records and documents

regarding the charges and hearing and shall report to the district superintendent [of] the determination made by the principal for any further action.

(d) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this [[ ]section[ ]] shall limit the right of the State to bring such action against any person to recover such damages.

(e) [The fees or charges shall be deposited in a separate fund and expended by the department under such rules and regulations as it may prescribe.] Special fees and charges collected from pupils for co-curricular activities shall be deposited into insured checking or savings accounts and expended by each individual school under such rules adopted by the department pursuant to chapter 91.

(f) Special fees and charges collected from pupils who negligently break, damage, lose, or destroy school books, equipment, or supplies shall be deposited in a fund and expended by the department under such rules adopted pursuant to chapter 91.

(g) The department shall raise the standards of all public schools to the level of the English standard system starting in September 1949, and continue these adjustments annually, until all the schools of the State are raised to the level of a single standard system.

(h) The department may continue to group pupils within any public school in accordance with their abilities and educational needs."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 18, 1982.)

## ACT 287

H.B. NO. 2836-82

A Bill for an Act Relating to Mortgage Servicing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to regulate the activities of mortgage-servicing agencies so that homeowners will be protected against defalcation by these agencies. Mortgage-servicing agencies generally contract with mortgage lenders to collect monthly mortgage payments from individual homeowners, then make payments on their behalf to the lenders, to tax collectors and to insurance carriers for a servicing fee. The enforcement of the terms of mortgages ordinarily, require that periodic payment of principal and interest, real property taxes, fire insurance, lease rent, etc. to be made to the mortgage-servicing agency who in turn will make the various payments when required. This arrangement provides the mortgagee with assurance of payment by the homeowner of real property taxes and fire insurance, the nonpayment of which will affect the security of the mortgage. However, the homeowner is not protected against any mischief of these mortgage-servicing agencies to whom the various payments are entrusted.

The legislature finds that there is a need to regulate these agencies to protect the homeowner from suddenly finding that the agent to whom he has been making

his payments under the mortgage has not made any of the payments when due. The homeowner would then be faced with expending additional money to make his payments current, as well as possible assessment of penalties and fines as a result of the delinquency. The homeowner must be provided with adequate protection against such nonpayment.

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

## **“CHAPTER MORTGAGE AND COLLECTION SERVICING AGENTS**

§ -1 **Definitions.** As used in this chapter:

- (1) “Person” includes an individual, partnership, joint venture, corporation, association, business, trust, or any organized group of persons, or any combination thereof.
- (2) A person shall be deemed to engage in the business of a “mortgage servicing agent” or “collection servicing agent” if he by himself or through others offers to undertake or holds himself out as being able to undertake or does undertake to collect for another person the amounts due under any agreement which provides for installment payments and which is secured by an interest in real property, including without limitation mortgage loans and agreements of sale, whether or not such collection servicing agent receives any compensation or other consideration for his services. When referred to collectively in this chapter, such persons shall be called “servicing agents”.
- (3) “Installment payments” shall be deemed to include principal and interest and any expenses due in connection with the real property securing such agreement, including without limitation real property taxes, lease rent, insurance premiums, maintenance fees and similar expenses.

§ -2 **Exemptions.** This chapter shall not apply to the following persons:

- (1) Real estate brokers and salesmen licensed under chapter 467 and residing in the State, to the extent they are engaged in the regular course of their business as brokers or salesmen.
- (2) Banks, collection agencies, credit unions, escrow depositories, industrial loan companies, savings and loan associations, and trust companies authorized to do business in the State;
- (3) Any financial institution which is an approved lender for programs administered by the United States Department of Housing and Urban Development; provided that the financial institution files annually with the department of regulatory agencies satisfactory proof of that status;
- (4) Persons performing the services normally rendered by servicing agents under order of any court; and
- (5) Persons performing the services normally rendered by servicing agents, but with respect to fewer than five agreements at any one time that would otherwise come within the purview of this chapter.

§ -3 **Bond required.** (a) No person shall act, assume to act or advertise himself as a servicing agent, without having in effect a surety or cash bond



previously obtained under and in compliance with this chapter, a copy of which shall be filed with the director of regulatory agencies. The amount of the bond required shall be \$25,000 until July 1, 1983, after which time the amount of the bond shall be \$50,000.

(b) The bond shall be obtained from an insurance company authorized to transact the business of a surety in this State, and shall be conditioned upon the full and faithful compliance with all requirements of this or any other statutes now in force or hereafter enacted with respect to the duties, conduct, obligations and liabilities of servicing agents. The bond shall run to the State to the benefit of any person who has received a court judgment against the servicing agent or an employee of the servicing agent; provided that the aggregate liability of the surety shall not exceed the sum of the bond. In addition to any other remedy allowed by law, every person sustaining any damage resulting from a breach of the conditions of the bond may bring an action for the recovery under the bond of any damages sustained by such person. The bond shall remain in full force and effect unless terminated or cancelled by the surety, and shall by its terms provide that any such termination or cancellation shall not be effective unless written notice thereof is delivered by the surety to the director of regulatory agencies at least thirty (30) days prior the date of termination or cancellation.

(c) The bond shall be furnished in addition to any other bond required by any other provision of law. The bond shall not preclude or preempt any additional bond that any principal of the servicing agent may, in the discretion of such principal, require of the servicing agent.

(d) Individual employees of any servicing agent need not themselves obtain a bond, provided that their employer's bond covers the acts of such employees.

§ -4 **Physical presence.** No servicing agent may engage in business in this State unless it has a designated agent in the State authorized to act on its behalf.

§ -5 **Trust accounts, records.** Every servicing agent shall maintain a separate trust account in a federally insured depository institution for funds collected in behalf of its customers, and shall keep at its principal office in this State or office of its agent located in this State permanent records of all of its receipts and disbursements for each customer. Such records shall be kept, as to each installment payment agreement, for a period of at least six years following the last installment payment collected pursuant to such agreement.

§ -6 **Fiduciary responsibility.** Every servicing agent shall be considered a fiduciary with respect to its customers and shall keep and disburse funds collected in their behalf in strict compliance with any agreement made with such customers and in compliance with all applicable laws.

§ -7 **Remedies not exclusive.** The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law.

§ -8 **General penalty.** Any persons who wilfully or knowingly violates any provision of this chapter for which there is no other penalty specifically provided herein, shall be fined not less than \$100 nor more than \$1,000 for each violation.

§ -9 **False entry, destruction of records; penalty.** Any person who wilfully or knowingly makes any false certificate, entry, or memorandum upon any of the books or records of any servicing agent, or who knowingly alters, destroys, mutilates, or conceals such books or records, shall be fined not more than \$1,000 or

imprisoned not more than six months, or both.

§ -10 **Commingling of funds; penalty.** Any person who wilfully or knowingly causes the commingling of the funds of a servicing agent with customer trust funds shall be fined not more than \$1,000 or imprisoned not more than six months or both.

§ -11 **Embezzlement, misappropriation; penalty.** Any person who embezzles or misapplies customer trust funds received by a servicing agent shall be fined not more than \$5,000 or imprisoned not more than five years, or both.”

SECTION 3. This Act shall take effect upon its approval; provided, that any person engaging in the business of a servicing agent on the effective day of this Act shall have ninety days within which to comply with the terms hereof.

(Approved June 18, 1982.)

A Bill for an Act Relating to Interest.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 478-1, Hawaii Revised Statutes, is amended to read as follows:

“§478-1 **Legal rate; computation.** When there is no express written contract fixing a different rate of interest, interest shall be allowed at the rate of [six] ten per cent a year as follows:

- (1) For money due on any bond, bill, promissory note, or other instrument of writing, or for money lent, after it becomes due;
- (2) For money due on the settlement of accounts, from the day on which the balance is ascertained;
- (3) For money received to the use of another, from the date of a demand made; and
- (4) For money upon an open account, after sixty days from the date of the last item or transaction.”

SECTION 2. Section 478-8, Hawaii Revised Statutes, is amended to read as follows:

“§478-8 **Exemptions from usury.** (a) There shall not be interposed the defense or statement of a claim of usury in any action on a contract or promissory note, the principal amount of which exceeds the sum of \$750,000.

Section 478-6 shall not apply to parties to contracts or holders of promissory notes where the principal amount of such contracts or notes exceeds the sum of \$750,000.

(b) Small business investment companies shall be exempt from this chapter. The maximum rate of interest charged by such small business investment companies on any loan shall be the maximum rate of interest permitted, without reference to state law, by the federal Small Business Administration pursuant to the Small Business Investment Act of 1958, as amended.

As used in this subsection “small business investment company” means a company approved by the federal Small Business Administration to operate under

the provisions of the federal Small Business Investment Act of 1958 (72 U.S. Statutes at Large 689 et seq.; 15 U.S.C. 661 et seq.), as amended, and issued a license as provided thereunder.

(c) This chapter shall not apply to any mortgage loan wholly or partially secured by a guarantee or insurance or a commitment to insure issued under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code, the Veterans Benefit Act, subchapters I and II of Chapter 37 of Title 38 of the United States Code, and subchapter III of Chapter 8A of Title 42 of the United States Code.

(d) This chapter shall not apply to any mortgage loan wholly or partially secured by an alternative mortgage instrument as approved by the bank examiner in section 402-18.

(e) The provisions of this chapter expressly limiting the rate or amount of interest, discount, charges, or other consideration which may be directly or indirectly taken, received, or reserved shall not apply to any:

- (1) Indebtedness which is secured by a first mortgage lien on real property, or by a first lien on stock in a residential cooperative housing corporation, and is agreed to or incurred after May 30, 1980; provided that for the purposes of this section a wraparound lien wherein the wraparound lender has committed to loan sufficient funds to pay off the principal amount of all prior liens shall be considered a first lien; or
- (2) Agreement of sale made after May 30, 1980 under which a vendor agrees to sell real property to a vendee but retains legal title to the real property and in which the rate of interest is clearly stated. As used in this paragraph, agreement of sale includes sub-agreement of sale or other subsequent sub-agreement of sale made during the period from the effective date of this Act to midnight on June 30, 1985.
- (3) Indebtedness which is secured by a purchase-money junior mortgage lien on real property that is agreed to and incurred after the effective date of this paragraph; provided that purchase-money junior mortgage lien means a mortgage that is subordinate in lien priority to an existing mortgage on the same real property which is given to the seller as part of the buyer's consideration for the purchase of real property and delivered at the same time that the real property is transferred as a simultaneous part of the transaction made during the period from the effective date of this Act to midnight on June 30, 1985.

(f) The provisions of this chapter shall not apply to a loan made by an employee welfare benefit trust plan or an employee pension benefit plan approved by the Internal Revenue Service pursuant to the Employee Retirement Income Security Act of 1974 and by the United States Department of Labor or a loan made by the Employees' Retirement System of the State of Hawaii.

(g) The provisions of this chapter shall not apply to farm or livestock credit corporations which are authorized by federal law to borrow directly from Federal Intermediate Credit Banks for their lending activities.

(h) The provisions of this chapter shall not apply to transactions of merchants. The maximum rate of interest charged by merchants in such transactions shall be eighteen per cent per annum made during the period from the effective date of this Act to midnight on June 30, 1985.

tive date of this Act to midnight on June 30, 1985.

For purposes of this chapter, the term, "merchant" shall be as defined in section 490:2-104. This subsection shall not apply to any transactions regulated by chapters 403, 406, 407, 408, 409, 410, and 431.

[(h)](i) Subsections (f) and (g) shall expire at the close of June 30, 1985 except that they shall continue to apply to any loan for the duration of such loan if it is made prior to the close of June 30, 1985 or if it is made during the two year period beginning July 1, 1985 and ending June 30, 1987 pursuant to a commitment issued prior to the close of June 30, 1985."

SECTION 3. Section 408-15, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) Advance interest or discount. An industrial loan company may charge, contract for, receive, or collect in advance interest or discount at any rate which does not exceed the following maximum rate for the particular period and type of contract hereinafter set forth, computed in the manner set forth in section 408-3, at the inception of the contract, to wit:

- (1) Where interest is paid or deducted in advance for a period of not more than eighteen months upon any contract (whether the principal amount of the contract is payable in one payment at the end of the maturity period thereof or in installments), it shall not exceed twelve per cent a year computed in the manner set forth in section 408-3, at the inception of the contract.
- (2) Where interest is payable or deducted in advance upon a contract payable in a period of more than eighteen months, it shall not exceed an amount computed in the manner set forth in section 408-3, as follows: twelve per cent a year for the first eighteen months, plus nine per cent a year for the next twelve months (or portion thereof), plus six per cent a year for the next twelve months (or portion thereof), plus three per cent a year for the next six months (or portion thereof), of such period, as the case may be.

Interest shall not be deductible in advance for more than four years.

(For example: upon a contract, the principal amount of which is \$120, payable in twenty-four months, in monthly installments of \$5, the maximum amount of interest which may be deducted in advance under this section is computed as follows:

12 per cent a year of \$120	
for first 18 months .....	\$21.60
9 per cent a year of \$120	
for next 6 months .....	5.40
Total interest deductible in	
advance from principal	
amount of the contract .....	\$27.00)

- (3) For loans made or committed to after [[]May 31, 1980[[]] and prior to July 1, 1985, the maximum rates of interest specified in paragraphs (1)

and (2) of this subsection shall be as follows: A maximum rate of interest specified as twelve per cent a year shall be fourteen per cent a year, a maximum rate of interest specified as nine per cent a year shall be ten and one-half per cent a year, a maximum rate of interest specified as six per cent a year shall be seven per cent a year, and a maximum rate of interest specified as three per cent a year shall be four per cent a year. This paragraph shall not apply to loans made or committed to before [[]May 31, 1980[]].

- (4) In addition to requiring and collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly, or other periodic installments.
- (5) Late charges on delinquent installments. In addition to requiring and collecting or deducting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of late charges not to exceed twelve per cent a year on any contractual installment or portion thereof which remains unpaid on the due date of the installment where there has been no extension or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon. The company shall give the borrower written notice of the assessment of late charges prior to the due date for the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract. This [subsection (b)(5)] paragraph shall not apply to open-end loans.
- (6) After maturity interest charges. Upon maturity of the contract, the rate of interest on the unpaid principal balance of the loan shall be eighteen per cent a year or the original contract rate of interest, whichever is less. This [subsection (b)(6)] paragraph shall not apply to open-end loans."

2. By amending subsection (j) to read:

"(j) As an alternative to the interest authorized by subsection (b)[:];

- (1) An industrial loan company may contract for and receive interest at a rate not exceeding eighteen per cent per year on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that retail installment contracts as defined in section 476-1, unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. Loans providing for repayment on demand may be contracted for[,] under this subsection and subject to a maturity date not later than six years from the date of the note. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment. Upon the maturity date of the contract, the rate of interest on the unpaid principal balance of the loan may be twelve per cent a year or the original contract rate of interest, whichever is greater.
- (2) For loans made or committed after [[]May 31, 1980[]] and prior to July

1, 1985, the maximum rate of interest permitted by this subsection shall be twenty-four per cent a year. This paragraph shall not apply to loans made or committed to prior to [[May 31, 1980]].

- (3) In addition to collecting interest at the rate established in paragraph (1) or (2) of this subsection, an industrial loan company may collect late charges on delinquent installments. Except as otherwise provided in chapter 476, relating to Retail Installment Sales, late charges shall not exceed five per cent of each delinquent contractual installment or portion thereof which remains unpaid on the due date agreed upon in the contract of \$50, whichever is less. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. The company shall give the borrower written notice of the assessment of late charges prior to the due date of the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract."

SECTION 4. Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§478- Uniform Securities Act (Modified); exempt. The provisions of this chapter shall not apply to any security regulated by chapter 485; provided that the maximum legal rate of interest permissible with respect to a security shall not exceed eighteen per cent per annum."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval, but shall not affect any rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act. This Act shall not increase the maximum legal rate of interest, discount, charges, or other consideration permissible under Hawaii or federal law or any indebtedness agreed to or loan made before the effective date of this Act. This Act shall not increase the rate of interest, discount, charges, or other consideration agreed to in any commitment entered into before the effective date of this Act.

(Approved June 18, 1982.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Duties of Safe Deposit Companies, Trust Companies, Banks, Etc.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 236-24, Hawaii Revised Statutes, is amended to read as follows:

"§236-24 Duties of safe deposit companies, trust companies, banks, etc. No

safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, having possession or control of any property of a decedent, or property standing in the name of a decedent and one or more persons as joint tenants or tenants by the entirety, shall deliver, transfer, or pay the property to the personal representatives or legal representatives of the decedent, or to the surviving joint tenants or tenant by the entirety, or to any other person, or upon the order or request of any of the foregoing, without retaining a sufficient portion or amount thereof to pay any tax and the interest thereon which may thereafter be assessed or become due on account of the property, unless the director of taxation consents thereto in writing; provided that[,] where the property consists of or includes jointly held savings or commercial checking accounts, such safe deposit company, trust company, bank, corporation, or other institution, partnership, or person may release up to fifty per cent of such jointly held savings or commercial checking accounts without the consent of the director of taxation upon notification to the director, in writing, stating the name of the decedent, the name of the surviving joint tenant, or tenants or tenant by the entirety, to whom, or at whose order, the delivery, transfer, or payment was made, the date of same, and the amount of the delivery, transfer, or payment. When the decedent was at the time of [his] death a resident of the State, and the delivery, transfer, or payment is made to, or at the order of, the personal representative or other legal representative of the decedent, and does not consist of the contents of a safe deposit box, or of property standing in the name of the decedent and one or more persons as joint tenants or tenants by the entirety, it shall not be necessary to so retain assets for the payment of taxes and interest, or to obtain the consent of the director, if the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, immediately upon the delivery, transfer, or payment, notifies the director thereof in writing, stating the name of the decedent, the name of the personal representative or other legal representative of the decedent, to whom, or at whose order, the delivery, transfer, or payment was made, the date of same, and a description of the property. The word "property" as used in this section means property of every kind and nature, including shares of the capital stock of, or other interests in, or claims against, the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, making the delivery, transfer, or payment.

The director, personally or by representative, may examine the property which is about to be or has been delivered, transferred, or paid. Failure to allow such examination or failure to conform to this section shall render the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, liable to a payment of twice the amount of the tax and interest due or thereafter to become due upon the property delivered, transferred, or paid in violation hereof, and the liability shall be enforced in an action brought in accordance with section 236-38.

The provisions of this section concerning the delivery, transfer, or consent to delivery or transfer of securities of a corporation incorporated under the laws of this State do not apply to securities registered in the name of a nonresident decedent unless the decedent was a resident of a foreign country. In determining that the decedent was not a resident of a foreign country, a Hawaii corporation and its transfer agents in making delivery or transfer under this section may conclusively

rely upon an affidavit in a form prescribed by the director.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 22, 1982.)

## ACT 290

H.B. NO. 1521

A Bill for an Act Relating to Take-Over Bids.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 417E-1, Hawaii Revised Statutes, is amended by amending the definition of “Offeree company” to read:

“(5) “Offeree company” means a corporation incorporated under the laws of the Kingdom, Republic or Territory of Hawaii or under the laws of this State and doing business in this State whose shares are the subject of a take-over bid and which is either (i) subject to regulation by the public utilities commission under chapter 269, 271, or 271G or (ii) owns more than 1,000 acres of real property in any single county or (iii) is subject to the inspection of the bank examiner under chapter 401 or (iv) owns directly or indirectly more than ten per cent of the voting stock of any of the foregoing.”

SECTION 2. Section 417E-3, Hawaii Revised Statutes, is amended to read as follows:

“§417E-3 Registration of take-over bids; disclosure. (a) It shall be unlawful for any person to make a take-over bid unless the take-over bid has been registered in accordance with the provisions of this chapter.

(b) The commissioner shall receive and act upon applications for registration of take-over bids and may prescribe the forms upon which he may require the applications to be duly signed by the applicant and sworn to by any person having knowledge of the facts and shall be filed in the office of the commissioner.

(c) An application for registration of a take-over bid shall contain the following information and such other information as the commissioner prescribes:

- (1) The name, nationality, address and business experience of the offeror and each associate of the offeror, and the name and address of the offeree company;
- (2) The terms and conditions of the take-over bid, which shall include the applicable provisions of section 417E-2, and a statement of the aggregate consideration the offeror may become bound to pay;
- (3) The source and amount of the funds or other consideration used or to be used in making the take-over bid, and if any part of such funds or consideration is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of making such bid, a description of the transaction and the names of the parties thereto;
- (4) Any plans to sell or mortgage any assets of the offeree company to



finance the take-over bid;

- (5) Any plans or proposals that the offeror may have to liquidate the offeree company, to sell its assets to or merge it with any other person, or to make any other material change in its business or corporate structure;
- (6) The number of shares for which the take-over bid is made which are owned directly or indirectly by the offeror and each associate of the offeror;
- (7) Any information as to any contracts, arrangements, or understandings with any person with respect to any securities of the offeree company, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements puts or calls, guaranties of loans, guaranties against loss or<sup>1</sup> guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof;
- (8) Complete information on the organization of the offeror, including without limitation the year of organization, form of organization, jurisdiction in which it is organized, a description of each class of the offeror's capital stock and of its long term debt, financial statements for the current period and for the three most recent annual accounting periods, a brief description of the location and general character of the principal physical properties of the offeror and its subsidiaries, a description of pending legal proceedings other than routine litigation to which the offeror or any of its subsidiaries is a party or of which any of their property is subject, a brief description of the business done and projected by the offeror and its subsidiaries and the general development of such business over the past five years, the names of all directors and executive officers together with biographical summaries of each for the preceding five years to date, and the approximate amount of any material interest, direct or indirect, of any of the directors or officers in any material transaction during the past three years, or in any proposed material transactions to which the offeror or any of its subsidiaries was or is to be a party;
- (9) Material information concerning the identity and background of any offeror who is not a corporation, including his material business activities and affiliations during the past three years and a description of any pending legal or administrative proceedings in which the offeror is a party;
- (10) A statement as to whether any filing with respect to the take-over bid has been made pursuant to the laws of the United States or of any other state or territory thereof, and if so, a true copy of each such filing shall accompany the application.

(d) A record of the registration of take-over bids shall be kept in a register to be kept in the office of the commissioner in which register shall also be recorded any orders entered by the commissioner with respect thereto. The register and all

information with respect to the take-over bid registered therein shall be open to public inspection.

(e) At the time of filing the application for registration as prescribed in this section, the applicant shall pay to the commissioner, a fee of one-tenth of one percent of the aggregate consideration which the offeror is bound to pay for the equity securities for which a take-over bid is proposed to be made, but not less than \$200 nor more than \$1,000.

(f) Registration of a take-over bid shall become effective 60 days after the date of filing the application for registration with the commissioner unless delayed by order of the commissioner, or unless prior thereto the commissioner calls a hearing with respect to the take-over bid. The commissioner may call a hearing if he deems it necessary or appropriate for the protection of offerees in this State, and shall call a hearing if so requested by the offeree company, acting by resolution of its board of directors. If a hearing is called, the registration of the take-over bid shall not become effective until so ordered by the commissioner.

(g) If, following the hearing, the commissioner finds that the take-over bid fails to provide for full and fair disclosure to offerees of all material information concerning the take-over bid or that the take-over bid is unfair or inequitable to offerees or will not be made to all stockholders on substantially equal terms or is in violation of this chapter, he shall by order deny registration of the take-over bid. If he finds that the take-over bid provides for full and fair disclosure to offerees of all material information concerning the take-over bid and that the take-over bid is fair and equitable to offerees and is made on substantially equal terms to all stockholders and complies with this chapter, he shall by order register the take-over bid. Registration of the take-over bid shall not be deemed an approval or recommendation of the take-over bid by the commissioner.

(h) Notwithstanding the provisions of subsection (g):

- (1) Registration of a take-over bid with respect to an offeree company which is referred to in clause (i) or clause (iv) of subsection 417E-1(5) of this chapter shall not become effective until the public utilities commission has notified the commissioner of securities in writing of its determination that the public interest would not be adversely affected if the take-over bid succeeds.
- (2) Registration of a take-over bid with respect to an offeree company which is referred to in clause (ii) or clause (iv) of subsection 417E-1(5) of this chapter shall not become effective until the land use commission has notified the commissioner of securities in writing of its determination that the public interest would not be adversely affected if the take-over bid succeeds.
- (3) Registration of a take-over bid with respect to an offeree company which is referred to in clause (iii) or clause (iv) of subsection 417E-1(5) of this chapter shall not become effective until the bank examiner has notified the commissioner of securities in writing of his determination that the public interest would not be adversely affected if the take-over bid succeeds.

In making such determination, the state agency or official required to make the determination shall consider whether the purposes of applicable statutes will be

served, whether the business reputation and financial responsibility of the offeror is such as to command the confidence of the community, whether there will be undue concentration of economic power if the take-over bid succeeds, and whether any changes in management and operations will adversely affect employment in the State."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 22, 1982.)

**Note**

1. So in original.

**ACT 291**

H.B. NO. 1553

A Bill for an Act Relating to Mergers or Consolidations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 417-19, Hawaii Revised Statutes, is amended to read as follows:

**"§417-19 Written demand for compensation by dissenting stockholders.** If the requisite number of stockholders of any constituent corporation approve its merger or consolidation with another corporation, domestic or foreign, then any holder of voting or nonvoting shares who has not approved the merger or consolidation at the meeting at which the same was approved, may make written demand upon the constituent corporation of which he is a stockholder for the payment to him of the fair market value of his shares. The fair market value shall be determined as of the close of business of the day before the vote of the stockholders approving the action.

In the event an offeror, as defined in section 417E-1(2), has acquired ten per cent of the equity securities as defined in section 417E-1(6) of any constituent corporation through a take-over bid, as defined in section 417E-1(7), within two years prior to the date of approval of the merger or consolidation of the constituent corporation in which such shares are held and if the offeror has voted or caused such shares, through control thereof directly or indirectly, to be voted in favor of such merger or consolidation, then the offeror shall be liable to any other holder of such shares who has not voted in favor of such merger or consolidation for the difference between the maximum amount the offeror paid for such shares during any take-over bid within the aforesaid period and the fair market value of such shares."

SECTION 2. New statutory material is underscored.

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

(Approved June 22, 1982.)

**ACT 292**

H.B. NO. 509

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-538, Hawaii Revised Statutes, is hereby amended to read as follows:

**“§431-538 Policy loan.** (a) In the case of policies issued prior to the operative date of the Standard Nonforfeiture Law (section 431-561), a provision that after the policy has been in force three full years, the insurer at any time, while the policy is in force, will advance on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the insured less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by section 431-269, less a sum of not more than two and one-half per cent of the amount insured by the policy and of any dividend additions thereto; and that the insurer will deduct from the loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that the loan may be deferred for not exceeding six months after the application therefor is made. This subsection (a) shall not be required in term insurance, nor shall it apply to temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies.

[(b)] (1) In the case of policies issued on or after the operative date of the Standard Nonforfeiture Law (section 431-561), a provision that after the policy has a cash surrender value and while no premium is in default, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a rate of interest not exceeding eight per cent a year, an amount at the option of party entitled thereto, not to exceed the loan value less any prior indebtedness on the policy. If the policy shall provide for a rate of return in excess of six per cent a year, the insurance commissioner may require of the insurers that the holders of such policies will benefit through higher dividends or lower premiums. The policy shall provide for a loan value at least equal to the cash surrender value of the policy without indebtedness at the end of the then current policy year, less any unpaid balance of the premium for the current policy year, and less interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor is made. This [subsection] paragraph shall not apply to term policies not to term insurance benefits provided by rider or supplemental policy provisions.

(2) Policies issued on or after the effective date of this Act shall provide for maximum policy loan interest rates as follows:

- (A) A provision permitting a maximum interest rate of not more than eight per cent per annum; or
- (B) A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.
- (3) Insurers issuing policies with interest rates as provided in subparagraph (a)(2)(B) shall make available policies with interest rates as provided in subparagraph (a)(2)(A).
- (b) The rate of interest charged on a policy loan made under subparagraph (a)(2)(B) shall not exceed the higher of the following:
- (1) The Moody's Corporate Bond Yield Average-Monthly Average Corporate, as published by Moody's Investors Service, Inc. or any successor thereto, for the calendar month ending two months before the date on which the rate is determined; or
- (2) The rate used to compute the cash surrender values under the policy during the applicable period plus one per cent per annum;
- In the event that the Moody's Corporate Bond Yield Average-Monthly Average Corporate is no longer published by Moody's Investors Service, Inc., a substantially similar average, approved by rule adopted by the commissioner, shall be substituted.
- (c) If the maximum rate of interest is determined pursuant to subparagraph (a)(2)(B), the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy. The maximum rate for each policy shall be determined at regular intervals at least once every 12 months, but not more frequently than once in any three month period. At the intervals specified in the policy, the rate being charged shall be reduced whenever such reduction as determined under subparagraph (a)(2)(B) would decrease that rate by one-half per cent or more per annum.
- (d) The life insurer shall:
- (1) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;
- (2) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in (3) below; and
- (3) Send to policyholders with loans reasonable advance notice of any increase in the rate.
- (e) No policy shall terminate in a policy year as the sole result of a change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.
- (f) The substance of the pertinent provisions of subsections (a), (b) and (c) shall be set forth in the policies to which they apply.
- (g) For purposes of this section:
- (1) The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.
- (2) The term "policy loan" includes any premium loan made under a policy

to pay one or more premiums that were not paid to the life insurer as they fell due.

(3) The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

(4) The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

(h) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates."

SECTION 2. **Applicability to existing policies.** The provisions of this Act shall not apply to any insurance contract issued before the effective date of this Act unless the policyholder agrees in writing to the applicability of such provisions.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 22, 1982.)

ACT 293

H.B. NO. 1488

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-561, Hawaii Revised Statutes, is hereby amended to read as follows:

**"§431-561 Standard nonforfeiture law; life insurance contracts.** (a) This section shall be known as the Standard Nonforfeiture Law for Life Insurance.

(b) Nonforfeiture provisions — life:

(1) In the case of policies issued on or after the operative date of this section as defined in subsection [(h),(i)], no policy of life insurance, except as stated in subsection [(g),(h)], shall be delivered or issued for delivery in this State unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the insurance commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified and are essentially in compliance with subsection (g):

(A) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of such value as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request no later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

- (B) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.
- (C) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make the election elects another available option not later than sixty days after the due date of the premium in default.
- (D) That, if the policy has been paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.
- (E) [A] In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.
- (F) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the jurisdiction in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that the method of computation has been filed with the insurance supervisory official of the jurisdiction in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture

ture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

- (2) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.
- (3) The insurer shall reserve the right to defer the payment of cash surrender value for a period of six months after demand therefor with surrender of the policy.
- (c) Cash surrender value — life:
  - (1) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (b) of this section, shall be an amount not less than the excess, if any, of the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy including any existing paid-up additions, if there had been no default, over the sum of:
    - (A) The then present value of the adjusted premiums as defined in subsection (e) of this section, corresponding to premiums which would have fallen due on and after the anniversary, and
    - (B) The amount of any indebtedness to the insurer on account of [any indebtedness to the insurer on account of] or secured by the policy. Provided, that for any policy issued on or after the operative date of subsection (e)(8) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in paragraph (1) of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

Provided, further, that for any family policy issued on or after the operative date of subsection (e)(8) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in (1) of this subsection shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.



- (2) Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (b), shall be an amount not less than the present value, on the anniversary, of the future guaranteed benefits provided for by the policy including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(d) Paid-up nonforfeiture benefit — life. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of the anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(e) The adjusted premium — life:

- (1) This paragraph (1) shall not apply to policies issued on or after the operative date of paragraph (8) of this subsection as defined therein. Except as provided in subsection (e)(4) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:
- (A) The then present value of the future guaranteed benefits provided for by the policy;
  - (B) Two per cent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;
  - (C) Forty per cent of the adjusted premium for the first policy year;
  - (D) Twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.
- (2) This paragraph (2) shall not apply to policies issued on or after the operative date of paragraph (8) of this subsection as described therein. Provided, that in applying the percentages specified in (C) and (D) above, no adjusted premium shall be deemed to exceed four per cent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy.
- (3) This paragraph (3) shall not apply to policies issued on and after the

operative date of paragraph (8) of this subsection as described therein. In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this paragraph shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten was the amount provided by the policy at age ten.

- (4) This paragraph (4) shall not apply to policies issued on and after the operative date of paragraph (8) of this subsection as described therein.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (B) the adjusted premiums for the term insurance, the foregoing items (A) and (B) being calculated separately and as specified in subsection (e)(1), (2), and (3) except that for the purposes of subsection (e)(1)(B), (C), and (D) the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (B) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (A).

- (5) This paragraph (5) shall not apply to policies issued on or after the operative date of paragraph (8) of this subsection as described therein. Except as otherwise provided in paragraph (6) and (7) or subsection (e) of this section, all adjusted premiums and present values referred to in this section shall for all policies or ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent a year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent of the rates of mortality according to the applicable table. Provided, further, that for insurance issued on a sub-

standard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

- (6) This paragraph (6) shall not apply to ordinary policies issued on or after the operative date of paragraph (8) of this subsection as defined therein. In the case of ordinary policies issued on or after the [or after the] operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half per cent a year, except that a rate of interest not exceeding four per cent a year may be used for policies issued<sup>1</sup> after June 1, 1976 and prior to June 1, 1979 and a rate of interest not exceeding five and one-half per cent a year may be used for policies issued on or after June 1, 1979, except that for any single premium whole life or endowment insurance policy at a rate of interest not exceeding six and one-half per cent a year may be used, and provided further that<sub>2</sub> for any category of ordinary insurance issued on female risks<sub>2</sub><sup>2</sup> adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured; provided that<sub>2</sub> in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commission's 1958 Extended Term Insurance Table; provided further that<sub>2</sub> for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner. After June 1, 1959, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph (6) after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph (6) for such insurer), this paragraph (6) shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this paragraph (6) for such insurer shall be January 1, 1966.
- (7) This paragraph (7) shall not apply to industrial policies issued on or after the operative date of paragraph (8) of this subsection as defined therein. In the case of industrial policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that such rate of interest shall not exceed three and one-half per cent a year, except that a rate of interest not exceeding four per cent a year may be used for policies

issued<sup>3</sup> after June 1, 1976 and prior to June 1, 1979 and a rate of interest not exceeding five and one-half per cent a year may be used for policies issued on or after June 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent a year may be used, provided further that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table; provided further that, for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner. After May 8, 1965, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph for such insurer), this paragraph shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1968.

(8) This paragraph (8) shall apply to all policies issued on or after the operative date of this paragraph as defined herein. Except as provided in subparagraph (F), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (iii) one hundred twenty-five per cent of the nonforfeiture net level premium as hereinafter defined. Provided, that in applying the percentage specified in (iii) above, no nonforfeiture net level premium shall be deemed to exceed four per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of paragraph (8) shall be the date as of which the rated age of the insured is determined.

(A) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy

- on which a premium falls due.
- (B) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy immediately after the change. At the time of any such change in the benefit or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.
- (C) Except as otherwise provided in subparagraph (F), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.
- (D) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (i) one per cent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (ii) one hundred twenty-five per cent of the increase, if positive, in the nonforfeiture net level premium.
- (E) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing the value defined in (i) by the value defined in (ii):
- (i) The nonforfeiture net level premium applicable prior to the charge times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the charges on which a premium would have fallen due had the change not occurred, plus the present value of the increase in future guaranteed benefits

- provided for by the policy.
- (ii) The present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of charge on which a premium falls due.
- (F) Notwithstanding any other provisions of this paragraph to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.
- (G) All adjusted premiums and present values referred to in this Act shall for all policies of ordinary insurance be calculated on the basis of either the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this paragraph for policies issued in that calendar year. Provided that:
- (i) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding nonforfeiture interest rate, as defined in this paragraph, for policies issued in the immediately preceding calendar year.
  - (ii) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (b), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.
  - (iii) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.
  - (iv) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners

- 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.
- (v) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.
  - (vi) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.
  - (vii) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.
- (H) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five per cent of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one quarter of one per cent.
- (I) Notwithstanding any other provision in this chapter to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.
- (J) After the effective date of this paragraph (8), any company may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1989, which shall be the operative date of this paragraph for such company. If a company makes no such election, the operative date of this paragraph for such company shall be January 1, 1989.
- (K) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsection (b), (c), (d) and (e) of this section, then:
- (i) The commissioner must be satisfied that the benefits

provided under the plan are substantially as favorable to policy holders and insureds as the minimum benefits otherwise required by subsections (b), (c), (d), and (e) of this section;

- (ii) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;
- (iii) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by regulations promulgated by the commissioner;

(f) Calculation of values; life. Any cash surrender value and any paid-up value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (c), (d), and (e) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the [dividends] amounts used to provide such additions. Notwithstanding subsection (c) of this section, additional benefits payable:

- (1) In the event of death or dismemberment by accident or accidental means,
- (2) In the event of total and permanent disability,
- (3) As reversionary annuity or deferred reversionary annuity benefits,
- (4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,
- (5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of a child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and
- (6) As other policy benefits additional to life insurance and endowment benefits,

and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(g) [Exceptions. This section shall not apply to any reinsurance, group insurance, pure endowment, annuity, or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection (e) of this section, is less



than the adjusted premium so calculated, on such fifteen year term policy issued at the same age and for the same initial amount of insurance nor to any policy which shall be delivered outside this State through an agent or other representative of the insurer issuing the policy.] This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two tenths of one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of the greater of zero and the basic cash value hereinafter specified, and the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection (c) or (e)(1), (2), (3), (4), and (5), whichever is applicable, shall be the same as are the effects specified in subsection (c) or (e)(1), (2), (3), (4), and (5), whichever is applicable, on the cash surrender values defined in that subsection.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection (e)(1), (2), (3), (4), and (5) or subsection (e)(8), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

- (1) Must be the same for each policy year between the second policy anniversary and the later of (A) the fifth policy anniversary, and (B) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two tenths of one per cent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and
- (2) Must be such that no percentage after the later of the two policy anniversaries specified in paragraph (1) may apply to fewer than five consecutive policy years.

Provided, that no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection (e)(1), (2), (3), (4), and (5) or subsection (e)(8), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any

endowment benefits provided for by the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in sections (b), (c), (d), (e)(8), and (f). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as items (1) through (6) in subsection (f) shall conform with the principles of this subsection (g).

(h) Exceptions. This section shall not apply to any of the following:

- (1) Reinsurance,
- (2) Group insurance,
- (3) Pure endowment,
- (4) Annuity or reversionary annuity contract,
- (5) Term policy uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one for which uniform premiums are payable during the entire term of the policy,
- (6) Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before any<sup>4</sup> seventy-one, for which uniform premiums are payable during the entire term of the policy,
- (7) Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year calculated as specified in subsections (c), (d), and (e), exceeds two and one-half per cent of the amount on insurance at the beginning of the policy year, nor
- (8) Policy which shall be delivered outside this State through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

[(h)] (i) Operative date. After January 1, 1956, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date within six months from January 1, 1956. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer), this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be six months from January 1, 1956."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 22, 1982.)

## Notes

1. Prior to amendment, "on or" appeared here.
2. Should not be underscored.
3. Prior to amendment, "on or" appeared here.
4. So in original.

## ACT 294

H.B. NO. 1489

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431-269, Hawaii Revised Statutes, is hereby amended to read as follows:

"**§431-269 Standard Valuation Law; life.** (a) This section shall be known as the Standard Valuation Law.

(b) Annual valuation:

- (1) The insurance commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this State, except that in the case of an alien insurer the valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods (not level premium method or others) used in the calculation of the reserves. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept, in his discretion, the insurer's calculation of the reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.
- (2) The actual cost of making valuations under this section shall be assessed on the insurer, whose policies are so valued, by the commissioner.
- (3) Any such insurer which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(c) Minimum valuation standard:

- (1) Old policies: Except as otherwise provided in paragraph (3), the minimum standard for the valuation of all such policies and contracts

issued prior to the operative date of section 431-561, shall be that provided by the laws in effect immediately prior to January 1, 1956.

- (2) Except as otherwise provided in paragraph (3), the minimum standard for the valuation of all the policies and contracts issued on or after the operative date of section 431-561 shall be the Commissioners Reserve Valuation Methods defined in subsections (d), (e), and (h) of this section, three and one-half per cent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 1, 1976, four per cent interest, for such policies issued prior to June 1, 1979, five and one-half per cent interest for single premium life insurance policies and four and one-half per cent interest for all other such policies issued on or after June 1, 1979, and the following tables:
- (A) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies — the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of section [431-561(e)(5),] 431-561(e)(8), and the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured[.]; and for such policies issued on or after the operative date of section 431-561(e)(8), the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.
- (B) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies — the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section [431-561(e)(6),] 431-561(e)(7), and for the policies issued on or after such operative date the Commissioners 1961 Standard Industrial Mortality Table [for the policies issued on or after the operative date.] or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.
- (C) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

- (D) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the Group Annuity Mortality Table for 1951, any modification of the table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.
- (E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts — for policies or contracts issued after December 31, 1965, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit[;] or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued after December 31, 1960, and prior to January 1, 1966, either the tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.
- (F) For accidental death benefits in or supplementary to policies — for policies issued after December 31, 1965, the 1959 Accidental Death Benefits Table[;] or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued after December 31, 1960, and prior to January 1, 1966, either the table or, at the option of the insurer, the Inter-company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.
- (G) For group life insurance, life insurance issued on the substandard basis, and other special benefits — such tables as may be approved by the commissioner.
- (3) [The] Except as provided in paragraph (4), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioners Reserve Valuation Methods defined in subsections (d) and (e) and the following tables and interest rates:
- (A) For individual annuity and pure endowment contracts issued prior to June 1, 1979, excluding any disability and accidental death benefits in such contracts — the 1971 Individual Annuity Mortality

Table, or any modification of this table approved by the commissioner, and six per cent interest for single premium immediate annuity contracts, and four per cent interest for all other individual annuity and pure endowment contracts.

- (B) For individual single premium immediate annuity contracts issued on or after June 1, 1979, excluding any disability and accidental death benefits in such contracts — the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of [this table] these tables approved by the commissioner, and seven and one-half per cent interest.
- (C) For individual annuity and pure endowment contracts issued on or after June 1, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts — the 1971 Individual Annuity Mortality Table[,] or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of [this table] these tables approved by the commissioner, and five and one-half per cent interest for single premium deferred annuity and pure endowment contracts and four and one-half per cent interest for all other such individual annuity and pure endowment contracts.
- (D) For all annuities and pure endowment contracts purchased prior to June 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts — the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner and six per cent interest.
- (E) For all annuities and pure endowments purchased on or after June 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts — the 1971 Group Annuity Mortality Table[,] or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of [this table] these tables approved by the commissioner and seven and one-half per cent interest.

After June 1, 1976, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such insurer; provided that an insurer may elect a different operative date for individual annuity and pure endow-

ment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1979.

(4) Applicability of this section:

(A) The interest rates used in determining the minimum for the valuation of:

- (i) All life insurance policies issued in a particular calendar year, on or after the operative date of section 431-561(e)(8),
  - (ii) All individual annuity and pure endowment contracts issued in a particular calendar year after December 31, 1982,
  - (iii) All annuities and pure endowments purchased in a particular calendar year after December 31, 1982 under group annuity and pure endowment contracts, and
  - (iv) The net increase, if any, in a particular calendar year after 1982, in amounts held under guaranteed interest contracts
- shall be the calendar year statutory valuation rates as defined in this paragraph.

(B) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one per cent:

(i) For life insurance,

W

$$I = .03 + W(R - .03) + 2(R - .09);$$

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W(R - .03)$$

where  $R_1$  is the lesser of R and .09,  $R_2$  is the greater of R and .09, R is the reference interest rate defined in this section, and W is the weighting factor defined in this paragraph;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (ii) above, the formula for life insurance stated in (i) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in (ii) above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (ii) above shall apply;

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium imme-

diate annuities stated in (ii) above shall apply.

(C) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one half of one per cent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when section 431-561(e)(8) becomes operative.

(D) The weighting factors referred to in the formulas stated above are given in the following tables:

(i) Weighting Factors for Life Insurance:

<u>Guarantee Duration (Years)</u>	<u>Weighting Factors</u>
<u>10 or less</u>	<u>.50</u>
<u>More than 10, but not more than 20</u>	<u>.45</u>
<u>More than 20</u>	<u>.35</u>

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:

.80;

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (ii) above, shall be as specified in the tables below, according to the rules and definitions stated below:

Table I

For annuities and guaranteed interest contracts valued on an issue year basis;

<u>Guarantee Duration (Years)</u>	<u>Weighting Factor for Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
<u>5 or less:</u>	<u>.80</u>	<u>.60</u>	<u>.50</u>
<u>More than 5, but not more than 10:</u>	<u>.75</u>	<u>.60</u>	<u>.50</u>
<u>More than 10, but not more than 20:</u>	<u>.65</u>	<u>.50</u>	<u>.45</u>



<u>More than 20:</u>	<u>.45</u>	<u>.35</u>	<u>.35</u>
	<u>Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>

Table II:

For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) above increased by:

<u>.15</u>	<u>.25</u>	<u>.05</u>
<u>Plan Type</u>		
<u>A</u>	<u>B</u>	<u>C</u>

Table III:

For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in Table I or derived in Table II increased by:

<u>.05</u>	<u>.05</u>	<u>.05</u>
<u>Plan Type</u>		
<u>A</u>	<u>B</u>	<u>C</u>

For other annuities with cash settlement options with guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt for the funds by the insurance company, or (2) without such adjustment but in installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such

adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years. Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

Plan Type C:

A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

- (E) The reference interest rate referred to in subparagraph (B) of this section shall be defined as follows:
- (i) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.
  - (ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average

- Monthly Average Corporates, as published by Moody's Investors Service, Inc.
- (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) above, with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.
- (iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) above, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.
- (v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.
- (vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (ii) above, the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.
- (F) Alternative methods for determining reference interest rates:
- (i) In the event that Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the commissioner, may be substituted.
- (d) Commissioners Reserve Valuation Methods:
- (1) Except as otherwise provided in subsections (e) and (h) reserves accord-

ing to the Commissioners Reserve Valuation Methods, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value at the date of valuation, of such future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be the uniform percentage of the respective contract premiums for such benefits (excluding extra premiums on a substandard policy) that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of (A) over (B) as follows:

- (A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one a year payable on the first and each subsequent anniversary of the policy on which a premium falls due; provided that the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age of issue of such policy.
- (B) A net one-year term premium for the benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (h), be the greater of the reserve as of such policy anniversary calculated as described in the foregoing provisions of this subsection and the reserve as of such policy anniversary calculated as described in those provisions, but with (i) the value defined in (A) being reduced by fifteen per cent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subsections (c)(2) and (c)(3) shall be used.

- (2) Reserves according to the Commissioners Reserve Valuation Methods

for (A) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (B) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, (C) disability and accidental death benefits in all policies and contracts, and (D) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection (d).

(e) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(f) Minimum aggregate reserves: In no event shall an insurer's aggregate reserves for all life insurance policies excluding disability and accidental death benefits, issued on or after the operative date of section 431-561, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), (e) [and (g)], (h), and (i) and the mortality tables and rates of interest used in calculating nonforfeiture benefits for such policies.

(g) Optional reserves bases: Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after the operative date of section 431-561, may be calculated, at the option of the insurer according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard herein provided, but the rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rates of interest used in calculating any nonforfeiture benefits provided for therein. Any such company which at

any time shall have adopted any standard valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(h) Minimum reserve: If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in (c)(1), (c)(2) and (c)(4).

Provided that for any life insurance policy issued on or after January 1, 1986 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (d), ignoring the second paragraph of that subsection. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (d), including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection.

(i) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (d), (e), and (h) the reserves which are held under any such plan must:

- (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and
- (2) Be computed by a method which is consistent with the principles of this section, as determined by regulations promulgated by the commissioner."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval only if H.B. No. 1488<sup>1</sup> in any form is passed by the legislature, Regular Session of 1982, and becomes an Act.

(Approved June 22, 1982.)

Note

1. Enacted as Act 293.

## ACT 295

S.B. NO. 262

A Bill for an Act Relating to Delinquent Penalties for Late Renewal of Motor Vehicle Registrations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 249-10, Hawaii Revised Statutes, is amended to read as follows:

**“§249-10 Delinquent penalties; seizure and sale for tax.** Any tax imposed by sections 249-1 to 249-13 for any year and not paid before April 1 of such year, or at any subsequent date when due, shall become delinquent and a penalty [of ten per cent thereof] shall be added to, and become part of, the delinquent tax. The amount of the delinquency penalty shall be established by the county's legislative body. Any vehicle not having the number plates required by sections 249-1 to 249-13, or any vehicle upon which taxes are delinquent as hereinbefore provided, may be seized, wherever found, by the director of finance or by any police officer, and held for a period of ten days, during which time the vehicle shall be subject to redemption by its owner by payment of the taxes due, together with the delinquent penalties and the cost of storage and other charges incident to the seizure of the vehicle. The director of finance, chief of police, or any police officer shall be deemed to have seized and taken possession of any vehicle, after having securely sealed it where located and posted a notice upon the vehicle, setting forth the fact that it has been seized for taxes and warning all other persons from molesting it under penalty provided by section 249-11.

All vehicles so seized and sealed shall remain at the place of seizure or at such other place as the director of finance may direct, at the expense and risk of the owner. If the owner of the vehicle fails to redeem it within ten days after seizure, the vehicle may be sold by the director of finance at public auction to the highest bidder for cash, after giving ten [days'] days public notice thereof in a newspaper of general circulation published in the county, or by posting notices thereof in at least three public places in the district where the vehicle was seized. The amount realized at the sale, less the amount of the tax and penalty due, together with all costs incurred in advertising, storing, and selling the vehicle and all other charges incident to the seizure and sale, shall be paid to the owner of the vehicle. If no claim for the surplus is filed with the director of finance within sixty days from the date of the sale, the surplus shall be paid into the county treasury as a government realization and all claim to such sum shall thereafter be forever barred.

The owner of any antique motor vehicle shall be exempt from the tax and delinquent penalty imposed under this chapter for the entire period of non-use; provided that the owner of the antique motor vehicle shall first present to the director of finance a signed and sworn certificate attesting to the antique motor vehicle's period of non-use.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect January 1, 1982.

(Approved July 2, 1982.)

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-57, Hawaii Revised Statutes, is amended to read as follows:

“§281-57 Notice. Upon the filing of the inspector’s report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than [twenty-one] forty-five days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission’s fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application, to not less than two-thirds of the persons being the owners or lessees of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than [twenty-one] forty-five days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice and provided further that in meeting this requirement, the applicants shall mail a notice to not less than three-fourths of the persons being the owners or lessees of real estate situated within a distance of one hundred feet from the nearest point of the premises as provided herein. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition, for each condominium project within the affected area, one notice of the hearing shall be sent by mail addressed “To the Residents, Care of the Manager”, followed by the name and address of the condominium involved.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved July 2, 1982.)



**TABLES SHOWING EFFECT  
OF ACTS**

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**GENERAL INDEX**

**TABLES SHOWING EFFECT OF ACTS  
ELEVENTH LEGISLATURE, REGULAR SESSIONS OF 1982  
STATE OF HAWAII**

Key: Am = Amended  
N = New  
R = Repealed  
Ree = Reenacted

Ren = Renumbered  
— = Section number to be assigned in HRS  
Supplement

**A. SECTIONS OF HAWAII REVISED STATUTES AFFECTED**

Section No.	Effect	Act No.	Section No.	Effect	Act No.
VOLUME 1			77-13	Am	152
8-—	N	46	78-4	Am	24
10-14	Am	224	78-18	R	152
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