

ACT 96

A Bill for an Act Relating to Administrative Procedure; Amending Various Sections of the Revised Laws of Hawaii 1955 to Conform with the Hawaii Administrative Procedure Act, and in Connection Therewith Making Further Amendments to Reflect Other General Acts.

Be it Enacted by the Legislature of the State of Hawaii:

Section 1. In this Act, unless otherwise stated, all chapter or section references are to the Revised Laws of Hawaii 1955, including chapter or section designations assigned by the revisor of statutes in the publication of the Cumulative Supplement to the Revised Laws of Hawaii 1955.

SECTION 2. Section 3-25 is amended as follows:

(a) By amending the last two sentences of the first paragraph to read:

“Such hearing officer shall hear the matter in the same manner as if it were before the commission, and upon the conclusion of the hearing shall report his findings of fact and his conclusions and recommendations based thereon to the commission and to the employee. The commission shall render the final decision in accordance with section 6C-11.”

(b) By amending the fourth paragraph to read:

“The findings and decisions of the commission shall be final on all such appeals, unless an appeal is taken as provided in chapter 6C.”

SECTION 3. Section 9-7 is amended to read:

§ 9-7. Rules of comptroller regulating expenditures; violations, penalty. Subject to chapter 6C, the comptroller may make, alter and repeal rules, not inconsistent with law, further controlling and regulating the expenditure of state moneys. The rules shall be approved by the governor and shall have the force of law. Any violation of the rules shall be subject to the penalties prescribed in section 9-6.”

SECTION 4. Section 9A-4 is amended by amending the second paragraph of subsection (b) to read:

“Any suspension order made under this paragraph, and any order dismissing any complaint under this paragraph, shall be subject to

appeal under chapter 6C and Rule 72 of the Hawaii rules of civil procedure by the party aggrieved, whether the person or firm or the director, to the circuit court for trial de novo on the facts and the law. On complaint by the director as in a civil action, the circuit court shall enforce any suspension order made by the appeal board by injunction against any contractor, subcontractor or officer or employee of the State, or any county."

SECTION 5. Section 9A-5 is amended to read:

"§ 9A-5. **Regulations.** Subject to chapter 6C, the director shall make reasonable regulations for the determination by him of prevailing wages under this chapter, for the enforcement and administration of this chapter, and for the general purposes of this chapter. Such regulations shall have the force and effect of law."

SECTION 6. Section 11-23 is amended to read:

"§ 11-23. **Appeal from board to supreme court.** Any legal voter may, at any time within thirty days after the decision of the board, appeal to the supreme court in the manner provided by law for civil appeals to the supreme court from the circuit court."

SECTION 7. Section 11-133 is amended to read:

"§ 11-133. **Persons confined to their homes by illness or physical disability.** Any registered voter qualified to vote at any general, primary or special election who is confined to his home by reason of such illness or physical disability as will prevent him from attending the polls, shall be entitled and enabled to vote in such manner as may be prescribed by rules and regulations which shall be promulgated by the lieutenant governor with the advice of the clerks of the several counties and with the approval of the governor. The rules and regulations shall provide for voting by such persons in such manner as to insure secrecy of ballot and to preclude tampering with the ballots of such voters and other election frauds; provided, that any voter who by reason of physical disability is unable to mark his ballots shall be authorized to receive assistance in the marking thereof. The rules and regulations may require affidavits, certificates and other written statements under oath. They shall be adopted in conformity with chapter 6C and shall have the force and effect of law."

SECTION 8. Section 11-195 is amended to read:

"§ 11-195. **Rules and regulations.** The lieutenant governor may make, amend and repeal such rules and regulations governing the selection, installation, delivery, use, operation, maintenance, repair and custody of voting machines and other similar matters relating thereto as in his judgment shall be necessary to carry out this part, and such rules and regulations, when adopted in conformity with chapter 6C and upon approval by the governor, shall have the force and effect of law."

SECTION 9. Section 14A-5 is amended by amending the third paragraph to read:

"The head of each department may prescribe regulations for the

administration of his department, for the conduct of its employees, for the performance of its business, and for the custody, use and preservation of records, equipment and other property pertaining thereto; provided, that the regulations shall not be inconsistent with the requirements of chapters 3, 4, 6C and 7, or rules promulgated by the governor or other laws of the State of Hawaii."

SECTION 10. Section 14A-8 is amended by amending the first paragraph to read:

"Except as otherwise provided by law, the lieutenant governor is designated the secretary of state for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. Such duties and functions shall include, but not be limited to, supervision of elections, recordation of all legislative and gubernatorial acts, certification of state documents and maintenance of an official file of rules and regulations promulgated by state departments, as provided in chapter 6C."

SECTION 11. Section 15-18 is amended by amending subsection (c) to read:

"(c) How made. All rules and regulations having the force and effect of law shall be approved by the governor and shall be subject to chapter 6C."

SECTION 12. Section 15-19 is amended to read:

§ 15-19. Orders, notice and opportunity for hearings, judicial review. (a) Every order of the director of transportation requiring performance of or desistance from certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license or refusal of a renewal thereof, (1) shall be in such form as required by section 6C-12, (2) shall be made only after reasonable notice and an opportunity to be heard in conformity with chapter 6C, and (3) shall be served upon the persons affected either by registered or certified mail with return receipt requested or in person.

"(b) In every case where reasonable notice and opportunity for hearing are required under this section, the director shall, on not less than five days' notice personally served, or seven days' notice by registered or certified mail (to be computed from the date of mailing of the notice), specify the matters prescribed in section 6C-9; provided, that in cases of emergency where the public interest so requires the amount of notice may be shortened, or a temporary order may be issued pending the holding of the hearing. To the extent practicable, hearings on such matters shall be held in the county where the affected person resides or does business.

"(c) Any person aggrieved by an order of the director or by the grant, denial or revocation of any approval, license or certificate, or refusal of a renewal thereof, may obtain a review thereof by the circuit court of the circuit in which such person resides or does busi-

ness in the manner provided in chapter 6C for review of orders in contested cases. Upon application of either party the court may assign the appeal for hearing at the earliest possible date.

"Proceedings for review by the supreme court may be taken and had in the manner provided for a review of a judgment of a circuit court.

"Upon the final termination of any such judicial review, the director shall enter an order or take other action in accordance with the mandate of the court."

SECTION 13. Section 18-8 is amended as follows:

(a) By amending the first paragraph to read:

"Subject to chapter 6C and with the approval of the governor, the board shall make, amend and repeal rules and regulations, not inconsistent with law, for and concerning:"

(b) By amending the last paragraph to read:

"All rules and regulations made as aforesaid shall have the force and effect of law."

SECTION 14. Section 18-17 is amended to read:

§ 18-17. Appeal from inspector's decision. Any person who feels aggrieved at any decision of any inspector of the department shall have the right to appeal from the decision to the board. The board shall give a prompt hearing to the appellant and the inspector upon such appeal, and decide the question at issue, which decision shall be subject to judicial review as provided in chapter 6C."

SECTION 15. Section 19-21 is amended by amending the first paragraph to read:

"The department of land and natural resources shall determine, after public hearing held in the same manner as provided in section 6C-3, areas which are watersheds."

SECTION 16. Section 19-36 is amended by amending the first sentence to read:

"The department may, subject to chapter 6C, make, amend and repeal rules and regulations having the force and effect of law, governing the use and protection of the state park system and the property thereon, and enforce such rules and regulations."

SECTION 17. Section 19-70 is amended by amending paragraph (c) to read:

"(c) Notice, hearings. Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or permitted uses of any subzone, or to establish a subzone with certain permitted uses, or where the department proposes to make such change or changes itself, such change or changes shall be put in the form of a proposed regulation by the applicant and the department shall then give notice by publication at least once in a newspaper of general circulation in the State and by mail to all landowners whose property is directly affected by any

such proposed change. Such notice shall be given not less than twenty days prior to the date set for hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed regulation and the necessary maps shall be made available for inspection by interested members of the public. The hearing shall be conducted by the chairman of the board, or by some member or employee designated by him. For the purpose of its public hearing or hearings, the board shall have power to summon witnesses, administer oaths, and require the giving of testimony."

SECTION 18. Section 19-72 is amended to read:

"Section 19-72. **Zoning order; appeal to circuit court.** Any final order of the department based upon this part may be appealed to the circuit court of the circuit in which the land in question is found. Such appeal shall be in accord with chapter 6C and the Hawaii rules of civil procedure."

SECTION 19. Section 21-148 is amended by amending paragraph (a) to read:

"(a) The regulations authorized in the preceding paragraph shall be made in conformity with chapter 6C."

SECTION 20. Section 22-44 is amended to read:

"§ 22-44. **Board, notice of hearing.** In establishing and prescribing the standards, or any alterations or modifications to such standards, the board shall call a public hearing and give notice thereof in conformity with chapter 6C."

SECTION 21. Section 23-22 is amended to read:

"§ 23-22. **Certificates of sanitation.** The department of agriculture may issue, subject to the approval of the director of health, certificates of sanitation to the slaughterhouses within the State which meet minimum sanitary specifications required (a) for the slaughtering of animals for the purpose of selling the meat or products thereof for human consumption and (b) for the storing and handling of such meat and meat products. The board of agriculture may make rules and regulations subject to the provisions of chapter 6C having the force and effect of law and governing the issuance and revocation of the certificates and the minimum sanitary specifications required to be met in connection therewith and prescribing forms, requiring reports, and providing for periodic renewals of the certificates."

SECTION 22. Section 23-25 is amended by amending the first six lines to read:

"§ 23-25. **Rules and regulations.** The board of agriculture may make and adopt rules and regulations subject to chapter 6C having the force and effect of law and governing the following matters:"

SECTION 23. Section 27-7 is amended by amending paragraph (g) to read:

"(g) Order in writing. Any order made under paragraphs (c), (d) or (e) of this section and any order made by the board revoking

a permit under paragraph (f) of this section, shall be in writing and shall set forth the reasons for the partial refusal, suspension or revocation of the permit and shall be in conformity with section 6C-12. Service upon the application or permittee shall be made by transmitting a copy of the order by registered mail or as authorized by section 6C-12.”

SECTION 24. Section 27-9 is amended to read:

“§ 27-9. **Appeal to circuit court.** Any applicant whose application or permit has been refused, in whole or in part, or any permittee whose permit has been revoked or suspended by an order of the board, may appeal therefrom to the circuit court of the first judicial circuit or of the circuit in which the lands or areas affected are located as provided in chapter 6C.

Upon application of either party the appeal may be advanced and assigned for trial at the earliest possible date.

The court may affirm or reverse such order or determination, and may modify such order or determination by partially affirming and partially reversing the same, but may not otherwise modify the same or enter a new or different order or determination. If the court reverses such order or determination it shall render its decision setting forth wherein such order or determination is erroneous, together with such rules of law, and such findings of fact as will enable a proper order or determination to be entered. Within ten days after the decision of the court has been entered the board shall report to the court a new order or determination consistent with the decision, which shall take effect and be final upon the expiration of five days thereafter, unless an objection thereto is filed with the court within such period. In the event of such objection, such order or determination, or such modified order or determination as may thereafter be reported to the court, shall take effect and be final when determined by the court to be consistent with its decision, and the court may require the reporting of modified orders or determinations, as may be necessary.

The court shall prescribe the procedure to be followed in the case of such appeals.”

SECTION 25. Section 37-7 is amended to read:

“§ 37-7. **Rules, regulations.** Subject to chapter 6C the department may adopt rules and regulations not contrary to law, for the government of all teachers and pupils, its officers, agents and servants, and for carrying out the general scheme of education and for the transaction of its business. The rules shall be approved by the governor and shall have the force and effect of law.”

SECTION 26. Section 38-5.3 is amended to read:

“§ 38-5.3. **Demotion or termination of contract by department.** In case of demotion or termination of any contract, the department shall furnish the teacher a written notice signed by the superintendent of its intention to consider the demotion or termination of his contract

with full specification of the grounds for such consideration. Unless the teacher so notified, within ten days subsequent to the receipt of the notice, demands in writing an opportunity to appear before the department and offer reasons against such demotion or termination, the department may proceed with formal action for demotion or termination of the contract. If the teacher, within ten days after receipt of notice from the superintendent, demands in writing a hearing before the department, the department shall set a time for the hearing within thirty days from the date of the written demand and the superintendent shall give the teacher at least fifteen days' notice in writing of the time and place of such hearing. Chapter 6C shall apply to the notice and to all other aspects of the hearing. No hearing shall be held during the summer vacation without the teacher's consent. The hearing shall be private unless the teacher requests a public hearing. The hearing shall be conducted by a majority of the board of education and be confined to the grounds given for the termination. The department shall provide for a complete stenographic record of the proceedings, a copy of the record to be furnished to the teacher. The department may suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrant such action.

Both parties may be present at the hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the superintendent. In case of the failure of any person to comply with a subpoena, a circuit court judge of the judicial circuit in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. Any member of the board of education may administer oaths to witnesses. After hearing, the board by majority vote may enter upon its minutes an order of demotion or termination. If the decision of the board, after hearing, is against demotion or termination of the contract, the charges and the record of the hearing shall be physically expunged from the minutes and, if the teacher has been suspended, he shall be paid his full salary for the period of such suspension.

The findings and decisions of the board shall be subject to review as provided in chapter 6C.

In any hearing or court action the board shall be advised and represented by the attorney general, or may employ other legal counsel if so authorized by the attorney general."

SECTION 27. Section 42-52 is amended to read:

"§ 42-52. Suspension and revocation of license; procedure. The department may, after notice and opportunity for a hearing, suspend or revoke such license at any time when, in the judgment of the department, such licensee is not complying with the provisions of this

part or the rules and regulations which may be adopted by the board of education. The notice of hearing shall be served personally or sent to the licensee by registered or certified mail with return receipt at his last known address.

Notice of suspension or revocation shall be served personally upon the licensee or sent to him by registered or certified mail with return receipt, and such licensee shall forward his license at once to the department, and cease at once to operate such private trade, vocational or technical school.

All proceedings shall be subject to chapter 6C."

SECTION 28. Section 46-12 is amended to read:

"§ 46-12. **Rules, adoption, effect.** All rules and regulations made by the director shall be made in conformity with chapter 6C and, wherever expressly required, be approved by the governor. They shall have the force and effect of law."

SECTION 29. Section 46-18 is amended to read:

"§ 46-18. **Penalty.** Every person who violates any rule or regulation of the department, after the same has been adopted as provided in section 46-12, shall be fined not more than \$500, or imprisoned not more than one year, or both."

SECTION 30. Section 47-25 is amended to read:

"§ 47-25. **Hearing, decision.** Upon receiving any appeal from the comptroller, the court shall appoint three disinterested persons who shall sit as a board to hear and determine the appeal in conformity with chapter 6C. They shall have power to determine whether or not the land is deleterious to the public health and whether the improvements of the nature designated in the notice are required, and if the improvements are not required, what, if any, improvements are required in order to render the lands sanitary. The board shall also have power upon any appeal to determine the amount to be in conformity with section 47-29, apportioned to and assessed against each lot or parcel for drains or ditches and for the lands acquired therefor and for all other cost, if any, of the drainage system, and whether or not any lands are improperly included in or excluded from the drainage district. The decision of a majority of the board as to the necessity and nature and extent of the improvements and as to the apportionment of the cost of any drainage system shall be final and conclusive upon all parties in interest, unless an appeal is taken as provided in chapter 6C. The board shall appoint a time and place for hearing, first giving reasonable notice thereof to the director of health, the comptroller, and the owner or occupant of the land in question. Service of notice shall be as provided in section 47-23. As compensation for their services each member of the board is entitled to receive \$5 for each day of actual service."

SECTION 31. Section 47-62 is amended to read:

§ 47-62. **Powers; rule-making.** The department may make, amend and repeal rules and regulations having the force and effect

of law controlling and prohibiting air pollution whether by private persons or agencies or by governmental agencies throughout the State or in such areas of the State as shall be affected thereby. Notwithstanding the terms of any other law applying to the adoption of rules and regulations, no such rule or regulation, amendment or repeal shall be adopted except after public hearing to be held after thirty days' prior notice thereof by public advertisement of the date, time and place of such hearing, at which opportunity to be heard by the department in respect thereof shall be given to the public. No such rule or regulation, amendment or repeal shall be or become effective until sixty days after the adoption thereof. Any person heard at such public hearing shall be given written notice of the action taken by the department in respect of such rule or regulation."

SECTION 32. Section 47-73 is amended to read:

"§ 47-73. **Appeals to circuit court.** If any person is aggrieved by the decision of the department, he may appeal in the manner provided in chapter 6C to the circuit court of the circuit in which he resides or has his principal place of business and the hearing before the court shall be de novo."

SECTION 33. Section 47-74 is amended to read:

"§ 47-74. **Technical defect; stay of action pending appeal; review.** No rule or regulation of the department shall be declared to be invalid because of any technical defect. Any action for the enforcement or prosecution for violation thereof shall, if so ordered by the judge having jurisdiction, be stayed pending the final determination of such appeal. The decree of the circuit court may be appealed to the supreme court. Except as provided in section 47-73 or chapter 6C, no court shall have jurisdiction to review any rule or regulation of the department or to restrain or interfere with its enforcement."

SECTION 34. Section 48A-4 is amended by amending paragraph (a) to read:

"(a) Require such reports, make such inspections and investigations and prescribe such rules and regulations as are deemed necessary;"

SECTION 35. Section 49-13 is amended to read:

"§ 49-13. **Regulations.** For the purpose of carrying out this chapter, the director, with the consent of the governor, may make such regulations as he deems necessary which, when adopted in accordance with section 46-12, shall have the force of law."

SECTION 36. Section 50-26 is amended to read:

"§ 50-26. **Rules and regulations.** The director of health, with the approval of the governor, may adopt rules and regulations as he may consider necessary for the conduct of all matters pertaining to Hansen's disease, the treatment thereof, the care, custody, control and segregation of all persons affected with such disease, the care, discipline and maintenance of voluntary helpers, or kokuas, and the

full and complete governance of the county of Kalawao, except as limited by other provisions of this chapter. The rules and regulations when adopted in accordance with chapter 6C shall have the force and effect of law.”

SECTION 37. Section 51-20 is amended to read:

“§ 51-20. **Rules and regulations, hearings.** (a) Subject to chapter 6C and with the approval of the governor, the director may adopt and enforce such rules or regulations as he may deem necessary for the efficient enforcement of this part. The director may make the rules or regulations prescribed under this part conform in so far as practicable with those promulgated under the federal Act.

(b) Hearings authorized or required by this part shall be conducted by the director or any officer, agent or employee designated by the director for that purpose and shall be subject to chapter 6C.”

SECTION 38. Section 57-3 is repealed.

SECTION 39. Section 57-40 is amended by amending the first paragraph to read:

“§ 57-40. **Issuance; procedure.** The lieutenant governor may, whenever satisfied that any person was born within the State, cause to be issued to the person a certificate showing such fact; provided, that the person has attained the age of one year. The lieutenant governor, with the approval of the governor, may make such regulations respecting the form of applications and certificates, the method of proof, kind of evidence and time, place and manner of hearing, and all other matters and circumstances connected with the application, proof and hearing, as to him may appear necessary and the regulations, when so approved and made in accordance with chapter 6C, shall have the force of law. The lieutenant governor shall furnish the form of the applications and certificates. All applications shall be by sworn petition, in which the party shall set forth the facts upon which the application rests.”

SECTION 40. Section 58-5 is amended by amending subsection (a) to read:

“(a) The board may give examinations for the issuance of certificates of registration to practice barbering; grant, revoke or suspend such certificates; establish, subject to chapter 6C and with the approval of the governor and the director of regulatory agencies, rules and regulations governing the practice of barbering which shall have the force and effect of law.”

SECTION 41. Section 59-8 is amended to read:

“§ 59-8. **Rules and regulations.** The board may make, amend and repeal such rules and regulations as it may deem proper to fully effectuate and carry out the purpose of this chapter which is hereby declared to be the protection of the general public in its dealings with hairdressers, cosmeticians and cosmetologists. The rules and regula-

tions shall be made subject to chapter 6C and shall be approved by the governor and the director of regulatory agencies. They shall have the force and effect of law.”

SECTION 42. Section 59-21 is amended by amending the first paragraph to read:

“In every case where it is proposed to refuse to grant, renew, reinstate or restore a certificate or to revoke or suspend the exercise of one for any of the causes enumerated in section 59-20, the person concerned shall be given notice and opportunity for hearing in conformity with chapter 6C. The notice of hearing shall be given at least five days before the hearing.”

SECTION 43. Section 60-10 is amended to read:

“§ 60-10. **Proceedings for revocation or suspension of license.** In any proceeding before the director of health for the revocation or suspension of a license under this chapter for any act or condition listed in section 60-9, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for hearing in conformity with chapter 6C. All the provisions of sections 64-9, 64-10 and 64-11 shall be applicable to the proceedings hereunder.”

SECTION 44. Section 61-18 is amended by amending the first paragraph to read:

“In every case in which it is proposed to refuse to issue a license because of lack of good moral character or to revoke, suspend or refuse to issue a license under the provisions of section 61-17, the person concerned shall be given notice and opportunity to be heard by the board in conformity with chapter 6C. Written notice shall be given to the person concerned at least five days before the hearing.”

SECTION 45. Section 63-6 is amended by amending subsection (a) to read:

“(a) The board shall establish in conformity with chapter 6C rules and regulations governing the practice of massage, which, upon approval of the governor and the director of regulatory agencies, shall have the force and effect of law;”.

SECTION 46. Section 64-8 is amended to read:

“§ 64-8. **Hearing; procedure.** In any proceeding before the department of health for the revocation or suspension of a license to practice medicine and surgery for any act or condition listed in section 64-7, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for hearing in conformity with chapter 6C.”

SECTION 47. Section 65-6 is amended to read:

“§ 65-6. **Hearing; procedure.** In any proceeding before the department of health for the revocation or suspension of a permit under this chapter for any act or condition listed in section 65-6, the person whose permit is sought to be revoked or suspended shall be given

notice and opportunity for hearing in conformity with chapter 6C.

All the provisions of sections 64-9, 64-10 and 64-11 shall be applicable to the proceedings hereunder.”

SECTION 48. Section 67-19 is amended to read:

“§ 67-19. **Disciplinary proceedings; appeal to circuit court.** Upon either the receipt of a written complaint charging a person with having been guilty of any of the actions specified as grounds for disciplinary action or where such is indicated by board investigation, the executive officer of the board shall fix a time and place for a hearing and the accused shall be given notice and opportunity to be heard in the manner provided in chapter 6C. The notice of the hearing shall be served on the accused at least ten days prior thereto. When personal service cannot be effected and such fact is certified on oath by any person duly authorized to make legal service, the executive officer of the board shall cause to be published, twice in each of two successive weeks, a notice of the hearing in a newspaper published in the county in which the accused last practiced according to the records of the board and shall mail a copy to the accused at his or her last known address. When publication of the notice is necessary, the date of the hearing shall be not less than ten days after the last date of the notice. The attendance of witnesses, and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, and served in accordance with law. At the hearing the accused shall have the right to have subpoenas issued by the board. If the accused is found guilty of the charges the board may refuse to issue a license to the applicant or may revoke or suspend the license or otherwise discipline a licensee. A revoked or suspended license may be reissued at the discretion of the board.

Decisions of the board may be appealed to the circuit court of the person’s residence in the manner provided in chapter 6C.”

SECTION 49. Section 69-3 is amended to read:

“§ 69-3. **Organization; meetings, records.** The board shall annually elect from its members a president, secretary and treasurer. The board shall keep a complete record of its proceedings, and shall present annually to the governor a detailed statement of its receipts and disbursements during the preceding year with a statement of its acts and proceedings and such recommendations as the board may deem proper. The board, subject to chapter 6C and with the approval of the governor and the director of regulatory agencies, may make, amend and repeal rules and regulations for the administration of this chapter.”

SECTION 50. Section 69-10 is amended by amending subsections (a) and (b) to read:

“(a) Commencement of proceedings. The board may initiate proceedings under this chapter either on its own motion or on the complaint of any person. The proceedings shall be subject to chapter 6C.

(b) Notice; service and contents. A written notice as required by section 6C-9 shall be served on the accused not less than thirty days

prior to the date of the hearing either personally or by mailing a copy thereof by registered or certified mail with return receipt requested to the address of the accused last known to the board.”

SECTION 51. Section 70-4 is amended to read:

“§ 70-4. **Board; appointment, powers and duties.** The governor shall appoint and may remove in the manner prescribed in section 14A-3 a board of osteopathic examiners, consisting of three persons each of whom shall be an osteopathic physician or surgeon licensed under the laws of the State.

The board shall examine all applicants for licenses to practice as osteopathic physicians or as osteopathic physicians and surgeons and shall report the results of the examination to the department of health. Examinations shall be held quarterly at a time and place to be fixed by the board, of which examinations all applicants shall be notified in writing. Subject to chapter 6C and with the approval of the governor and the director of regulatory agencies, the board may make, amend and repeal all necessary rules and regulations relating to the enforcement of this chapter and not inconsistent therewith. The members of the board shall serve without pay.”

SECTION 52. Section 71-4 is amended by amending subsection (e) to read:

“(e) Power to regulate. The board may make such rules and regulations, not inconsistent with law, as may be necessary to carry out the purpose of this chapter, which purpose is hereby declared to be the protection of the public health and safety. The rules and regulations shall be prescribed in the manner provided in chapter 6C and, with the approval of the governor and the director of regulatory agencies. They shall have the force and effect of law.”

SECTION 53. Section 72-6 is amended to read:

“§ 72-6. **Revocation of license.** A license may be revoked by the department upon proof to its satisfaction of violation of any rule or regulation of the department in any respect in regard thereto. Every person so charged shall be given notice and opportunity for hearing in conformity with chapter 6C.”

SECTION 54. Section 73-11 is amended by amending the first paragraph to read:

“In every case where it is proposed to refuse to grant, renew, reinstate or restore a license or to revoke or suspend the exercise of a license for any of the causes enumerated in section 73-10, the person concerned shall be given notice and opportunity for hearing in conformity with chapter 6C. The notice of hearing shall be given at least five days before the hearing.”

SECTION 55. Section 77-58 is amended to read:

“§ 77-58. **Rules and regulations.** With the approval of the director of social services, the authority may prescribe such rules and regulations for the development, operation, maintenance and administration of such housing projects, not inconsistent herewith, as it may deem advisable.”

SECTION 56. Section 80-5 is amended to read:

“§ 80-5. Rules and regulations. The director may prescribe rules and regulations not contrary to law for the government, discipline and care of all training schools continued, established or instituted under this chapter. He may also make rules and regulations not contrary to law providing the method by which all the funds appropriated for such schools shall be expended and providing for the management and control of the schools and places of detention; and may likewise adopt such other rules and regulations not contrary to law as may be necessary to carry out the purposes of this chapter. The rules and regulations shall be approved by the governor.”

SECTION 57. Section 83-64 is amended by amending the first two sentences to read:

“The board of paroles and pardons may establish rules and regulations, with the approval of the governor and the director of social services, not inconsistent with the provisions of this part under which any prisoner may be paroled but shall remain, while on parole, in the legal custody and under the control of the board, and be subject, at any time until the expiration of the term for which he was sentenced, to be taken back within the enclosure of the prison. The rules and regulations shall have the force and effect of law.”

SECTION 58. Section 86-5 is amended by substituting “chapter 6C” for “sections 7-29 to 7-32” in the second paragraph.

SECTION 59. Section 87-8 is amended to read:

“§ 87-8. Regulations. The board may perform any and all acts and make such rules and regulations as may be necessary and proper for the purpose of carrying out this chapter, which upon compliance with chapter 6C shall have the force and effect of law.”

SECTION 60. Section 87B-7 is amended by amending subsection (a) to read:

“(a) The board may make, amend and repeal such rules and regulations concerning notices, hearings and proceedings under this chapter as it shall deem necessary for the accomplishment of its functions, and all such rules and regulations, when made or amended in conformity with chapter 6C shall have the force and effect of law.”

SECTION 61. Section 87B-12 is amended to read:

“§ 87B-12. Judicial review. Any person aggrieved by an order or decision of the board may obtain a review of the order or decision in the circuit court of the judicial circuit in which the ground-water area affected by the order or decision is located by appeal as provided in chapter 6C.”

SECTION 62. Section 88-11 is amended to read:

“§ 88-11. Appellate hearings before whom; further appeals. The appeal board shall meet at the call of the chairman or of any two members and shall consider all appeals submitted to it from decisions of the director, including those involving the validity of rules; provided, that no matters involving mediation, arbitration or conciliation

of industrial disputes shall be considered by the appeal board; provided further, that appeals from decisions of the director under chapter 97 in the counties of Hawaii, Maui and Kauai shall be made to the respective industrial accident boards of those counties.

Any person aggrieved by the decision of the appeal board may appeal therefrom in the manner provided in chapter 6C to the circuit court of the circuit in which he resides or has his principal place of business. The hearing in the circuit court shall be de novo. The judgment of the circuit court may be appealed to the supreme court. Appeals under chapter 97 from the appeal board in the city and county of Honolulu and from the industrial accident boards in the counties of Hawaii, Maui and Kauai shall be governed by the provisions in the chapter contained."

SECTION 63. Section 88-13 is amended by amending the last three paragraphs to read:

"The rules and regulations of the department and any amendments thereto, when approved by the governor and adopted in accordance with chapter 6C shall have the force and effect of law and shall be enforced in the same manner as the provisions of this chapter.

If there are practical difficulties or unnecessary hardships in carrying out a rule, the director may, after public hearing, make a variation from such requirement if the spirit of the rule is observed. Any person affected by such rule, or his agent, may petition for such variation, stating the grounds therefor. The director shall fix a day for a hearing on such petition and give reasonable notice thereof to the petitioner. A properly indexed record of all variations made shall be kept in the office of the department and shall be open to public inspection.

Any interested person may obtain a ruling as to the validity or applicability of any rule in the manner provided in chapter 6C."

SECTION 64. Section 88-14 is repealed.

SECTION 65. Section 88A-17 is amended to read:

"§ 88A-17. Appeals from the appeal board. Any person aggrieved by the decision of the appeal board may appeal therefrom as provided in section 88-11."

SECTION 66. Section 90-10 is amended as follows:

(a) By deleting subsection (c):

(b) By amending subsection (f) to read:

"(f) Any person aggrieved by the decision or order of the board may obtain a review thereof as provided in chapter 6C by instituting proceedings in the circuit court of the judicial circuit in which he or any party resides or transacts business, subject, however, to the general provisions of law for a change of the place of trial or the calling in of another judge. Where different parties in the same proceeding file petitions for review in two or more courts having proper jurisdiction, the jurisdiction of the judge first petitioned shall be exclusive and the other petitions shall be transferred to him. Such petition shall state the grounds upon which a review is sought and copies thereof shall be served upon the other parties and the board. Service may be

made by mailing such copies to the last known post office address of the parties concerned. When the proceedings are at issue, they may be brought on for hearing before the court upon the record by any party on ten days' written notice to the others. Upon such hearing, the court may confirm, modify or set aside the decision or order of the board and enter an appropriate decree. No objection that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances."

(c) By amending subsection (h) to read:

"(h) Commencement of proceedings under subsection (f) of this section shall not operate as a stay of the decision or order of the board, but the board or court may order a stay upon such terms as it deems proper."

(d) By amending subsection (j) to read:

"(j) Any party may appeal from the judgment of a circuit court entered under this chapter to the supreme court."

SECTION 67. Section 90-12 is amended to read:

"§ 90-12. **Rules and regulations.** Subject to chapter 6C, the board may adopt reasonable and proper rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it."

SECTION 68. Section 92-10 is amended to read:

"§ 92-10. **Rules and regulations.** For the purpose of carrying out the provisions of sections 92-4 to 92-6, the governor may prescribe rules and regulations, including provisions for maintenance, as part of the stevedoring revolving fund, of special bank accounts and cash funds, for drawing thereon by paymasters or other persons approved by the governor or the designated agency and for the manner of accounting therefor. Chapter 6C shall not be applicable to such rules and regulations."

SECTION 69. Section 93-37 is amended to read:

"§ 93-37. **Appeals, filing and hearing.** The claimant or any other party entitled to notice of a determination or redetermination as herein provided may file an appeal from such determination or redetermination at the office of the department in the county in which the claimant resides or in the county in which the claimant was last employed, within ten days after the date of mailing of the notice to his last known address, or if such notice is not mailed, within ten days after the date of delivery of such notice to him. Such appeal shall be heard in the county in which the appeal is filed, provided that the department may by its regulations provide for the holding of a hearing in another county with the consent of all parties or where necessary in order that a fair and impartial hearing may be had, and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify or reverse such determination or redetermination. The parties to any appeal shall

be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and the decision shall be final and shall be binding upon each party unless a proceeding for judicial review is initiated by the party pursuant to section 93-40; provided that, within the time provided for taking an appeal and prior to the filing of a notice of appeal, the referee may reopen the matter, upon the application of the director or any other party, or upon his own motion, and thereupon may take further evidence or may modify his decision, findings or conclusions. In the event the matter is reopened the referee shall render a further decision in the matter, either reaffirming or modifying his original decision, and notice shall be given thereof in the manner hereinbefore provided. The time to initiate judicial review shall run from the notice of such further decision, if the matter has been reopened."

SECTION 70. Section 93-38 is amended by amending the second sentence to read:

"The director shall adopt reasonable regulations governing the manner of filing appeals and the conduct of hearings and appeals, consistent with the provisions of this chapter and chapter 6C."

SECTION 71. Section 93-40 is amended to read:

§ 93-40. Judicial review. The director or any party to the proceedings before the referee may obtain judicial review of the decision of the referee in the manner provided in chapter 6C, by instituting proceedings in the circuit of the circuit in which the claimant resides or in which the claimant was last employed. In any such court proceedings, every other party to the proceeding before the referee shall be made a party respondent. The director shall be deemed to be a party to any such proceeding. The proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases except proceedings arising under the workmen's compensation law of the State. Proceedings for review by the supreme court may be taken and had in the same manner as is provided for a review of a judgment of a circuit court. No bond shall be required as a condition of initiating a proceeding for judicial review or initiating proceedings for review by the supreme court. Upon the final termination of any judicial proceeding, the referee shall enter an order in accordance with the mandate of the court."

SECTION 72. Section 93-68 is amended to read:

§ 93-68. Procedure for rate determination. The department shall as soon as is reasonably possible in each period make its classification of employers for such period and notify each employer of his rate of contributions for such period as determined pursuant to sections 93-62 to 93-68. Such determination shall become conclusive and binding upon the employer unless, within fifteen days after the mailing of notice thereof to his last known address, or in the absence of mailing within fifteen days after the delivery of such notice to him, the employer files an application for review and redetermination, setting forth his reasons therefor. If the department grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity

for a fair hearing, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to sections 93-30 to 93-42 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision or to any other proceedings under this chapter in which the character of such services was determined. The employer shall be promptly notified of the department's denial of his application, or of the department's redetermination, both of which shall become final unless a proceeding for judicial review in the manner provided in chapter 6C is commenced in the circuit court of the judicial circuit in which the employer resides or has his principal place of business or in the circuit court of the first judicial circuit. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil actions except proceedings arising under section 93-40 and the workmen's compensation law of the State. An appeal may be taken from the decision of the circuit court to the supreme court."

SECTION 73. Section 93-91 is amended to read:

"§ 93-91. Rules and regulations. The director may adopt, amend or repeal such rules and regulations as he deems necessary or suitable for the administration of this chapter. The rules and regulations when approved by the governor and prescribed in accordance with chapter 6C shall have the force and effect of law and shall be enforced in the same manner as the provisions of this chapter.

Any interested person may petition for an amendment or repeal of such rule or regulation as provided in section 6C-6."

SECTION 74. Section 94-11 is amended by deleting the last paragraph thereof.

SECTION 75. Section 96-7 is amended to read:

"§ 96-7. Judicial review. A safety order or an order prohibiting use issued by the appeal board shall be final and conclusive against the employer unless the employer obtains a review thereof in the manner provided in chapter 6C by instituting proceedings in the circuit court of the circuit in which such place of employment, machine, device, apparatus or equipment is situated or such practice, means, method, operation or process is employed. The hearing on review shall be de novo and the department shall be deemed a party to any such proceedings. The court shall give precedence to such proceedings over all other civil cases."

SECTION 76. Section 96-30 is amended to read:

"§ 96-30. Appeals. An appeal may be taken from any action of the director to the labor and industrial relations appeal board under section 88-11. Any person aggrieved by the decision of the appeal board may appeal therefrom as provided in section 88-11."

SECTION 77. Section 96-32 is amended to read:

“§ 96-32. Rules and regulations. The director may prescribe such rules and regulations as may be necessary for carrying out the purposes and provisions of this part. When approved by the governor and prescribed in accordance with chapter 6C, such rules and regulations shall have the force and effect of law.”

SECTION 78. Section 96A-12 is amended to read:

“§ 96A-12. Reconsideration; appeal; stay of enforcement.

(a) Reconsideration. In the absence of appeal and within ten days after mailing or delivery of notice of decision made pursuant to sections 96A-4 and 96A-11 to the parties entitled thereto, the director may, for good cause, on his own motion or upon application of any interested party reconsider such decision. Upon an application for reconsideration the director shall promptly reconsider the decision or, upon his own motion, transfer the application to the appeal board. Upon transfer such application shall be deemed to constitute an appeal from the director's decision as of the date of the application.

(b) Appeals from director's decisions. Any person aggrieved by the decision of the director made pursuant to sections 96A-4, 96A-11 or 96A-12(a) may appeal from such decision by filing a written notice of appeal within ten days after mailing or delivery of notice of decision with the appeal board.

The appeal board shall hold a full hearing de novo on the appeal and make its decision in writing which shall be filed with the record of the proceedings. The appeal board shall immediately send to the parties and the director a copy of the decision.

(c) Appeals from the appeal board. Any person aggrieved by the decision of the appeal board may appeal therefrom as provided in section 88-11.

(d) Stay of enforcement. In no case shall an application for reconsideration or an appeal to the appeal board or to the circuit court operate as supersedeas or stay unless the director or the appeal board or the circuit court so orders.”

SECTION 79. Section 98-11 is amended by amending the last sentence to read:

“Any person aggrieved by such order may appeal therefrom in the manner provided in chapter 6C to the first circuit court for a hearing de novo, including trial by jury. In all cases in which a trial by jury is had the cause shall be submitted to the jury on questions of fact stated to them pursuant to section 231-27. The right of trial by jury shall be deemed to be waived unless claimed in the manner provided in the Hawaii rules of civil procedure.”

SECTION 80. Section 98C-9 is amended to read:

“§ 98C-9. Appeal. Any operator aggrieved by any decision, order or action of the board refusing, modifying, suspending, cancelling or revoking a permit or disapproving an amended plan of reclamation may appeal from such decision, order or action to the circuit court of the circuit in which is located any part of the land described in the permit. The appeal shall be governed by the provisions of Rule 72 of

the Hawaii rules of civil procedure and chapter 6C. The appellant shall file a bond with the clerk of the circuit court to which the appeal is taken, in such amount and with such surety or sureties as the clerk may fix and prescribe, conditioned to pay all costs if such appeal be decided adversely to the appellant. On motion of the board the court may require the penalty of the bond to be increased to such amount and to be so conditioned that the operator filing such appeal shall be bound to perform all requirements of this chapter. The court shall have the power to reverse, affirm or modify in whole or part, the decision, order or action appealed from."

SECTION 81. Section 98J-5 is amended by amending paragraph (b) to read:

"(b) To make, amend or repeal any rule or regulation, having the force and effect of law, in accordance with chapter 6C;"

SECTION 82. Section 98L-6 is amended to read:

"**§ 98L-6. Rules and regulations.** The director of finance may adopt, amend or repeal such rules and regulations governing the granting of loans and other related functions as he deems necessary or suitable. The rules and regulations when approved by the governor and made in accordance with chapter 6C shall have the force and effect of law."

SECTION 83. Section 102-4 is amended by amending paragraph (n) to read:

"(n) Promulgate rules and regulations as it may deem necessary in accordance with chapter 6C having the force and effect of law."

SECTION 84. Section 112-5 is amended by amending the last paragraph to read:

"The rules and regulations shall be adopted in the manner prescribed in chapter 6C and shall have the force and effect of law."

SECTION 85. Section 123-13 is amended to read:

"**§ 123-13. Rules and regulations.** Subject to chapter 6C, the director shall have power to make rules and regulations relating to matters of procedure in the administration of this chapter and the manner and forms of records to be kept by distributors, and to prescribe standard forms of statements to be filed by distributors or other persons, affidavits and any other statements or other written data required to be filed or furnished under this chapter. The rules and regulations shall be approved by the governor and shall have the force and effect of law."

SECTION 86. Section 124-15 is amended to read:

"**§ 124-15. Administration by director; rules and regulations.** The administration of this chapter is vested in the director who may prescribe and enforce rules and regulations for the enforcement and administration of this chapter.

The rules and regulations shall be prescribed by the director, subject to chapter 6C and with the approval of the governor."

SECTION 87. Section 125-13 is amended to read:

“§ 125-13. Administration by director; rules and regulations. The administration of this chapter is vested in the director, who may prescribe and enforce rules and regulations for the enforcement and administration of this chapter.

The rules and regulations shall be prescribed by the director, subject to chapter 6C and with the approval of the governor.”

SECTION 88. Section 135-20 is amended to read:

“§ 135-20. Rules and regulations. Subject to chapter 6C, the bank examiner may make, amend and repeal rules and regulations not inconsistent with sections 135-18 to 135-21, as in his judgment seem appropriate for the carrying out of the destruction of any records. The rules and regulations shall be approved by the governor and shall have the force and effect of law.”

SECTION 89. Section 143-6 is amended by amending paragraph (b) to read:

“(b) To make, amend and repeal rules and regulations not inconsistent with this part to carry into effect the powers and purposes thereof, which rules and regulations shall be subject to chapter 6C.”

SECTION 90. Section 143-60 is amended by amending subsection (e) to read:

“(e) Any person affected by an order issued by the public officer may petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause, provided that such petition is filed within sixty days after the posting and service of the order of the public officer. Hearings shall be held by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court’s calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceeding. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. Except as otherwise provided in chapter 6C, the remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of compliance by the person with any order of the public officer.”

SECTION 91. Section 145A-16 is amended by amending the first sentence to read:

“The board shall have the power to fix and adjust rates and charges for the furnishing of water and for water service; provided no rates or charges shall be fixed or adjusted prior to the holding by the board of a public hearing, notice of which shall have been published in a newspaper of general circulation (one publication) not less

than twenty days before the date of such public hearing and such notice shall set forth the time, place of the hearing and the proposed rates and charges to be considered thereat."

SECTION 92. Section 146-112 is amended to read:

"§ 146-112. Rates. The board shall have the power to fix and adjust rates and charges for the furnishing of water and for water services such that the revenues derived therefrom shall be sufficient to make the waterworks and water systems self-supporting and to meet all expenditures authorized by this part; the board is specifically authorized to establish variable rates among the several districts of the county, or among the areas served by the individual water systems within the county, for the purpose of establishing charges as closely as possible to the necessary amount required for the maintenance and operation of the particular individual water systems; provided, no rates and charges shall be fixed or adjusted prior to the holding by such board of a public hearing, notice of which shall have been published in a newspaper of general circulation (one publication) not less than twenty days before the date set for such hearing. Such notice shall state the time and place for such hearing and the proposed rates and charges to be considered thereat. The time within which such notice shall be published shall be computed by including the first day (the day of publication) and excluding the last day."

SECTION 93. Section 148-31 is amended by amending the last sentence to read:

"The rules and regulations shall be approved by the chairman of the board of supervisors and shall have the force and effect of law."

SECTION 94. [Omitted]

SECTION 95. [Omitted]

SECTION 96. Section 159-16 is amended by amending the last paragraph to read:

"The exercise by the commission of the power, authority and discretion in it so vested shall be final in each case and shall not be reviewable by or appealable to any court or tribunal, except as otherwise provided in this chapter or chapter 6C."

SECTION 97. Section 159-41 is amended by amending the second paragraph to read:

"Upon such hearing, the commission shall consider the application and any objections to the granting thereof and hear the parties in interest. It shall inquire into the propriety of each transfer and determine whether the proposed transferee is a fit person to hold the license. It may approve a transfer or refuse to approve a transfer, and the refusal by the commission to approve a transfer shall be final and conclusive, unless an appeal is taken as provided in chapter 6C."

SECTION 98. Section 159-90 is amended by amending the second paragraph to read:

"In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other

than a conviction at law of the licensee as above specified, the licensee shall be entitled to notice and hearing in conformity with chapter 6C, such notice to be given at least five days before such hearing, except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission; provided, that the exercise of a license shall in no case be suspended or revoked for any violation (other than a conviction at law of the licensee as above specified) based upon the personal observation of any inspector, unless written notice of the violation charged to have occurred shall have been given to the licensee within ten days after the alleged violation occurred, and the licensee shall have been given a hearing upon the charge not more than ten nor less than five days after the giving of notice of the alleged violation."

SECTION 99. Section 159-91 is amended to read:

"§ 159-91. **Appeals.** Any licensee aggrieved by any order assessing, or providing for the collection of, a penalty or by any order suspending or revoking any license may appeal therefrom in the manner provided in chapter 6C to the circuit court of the circuit in which the commission making such order has jurisdiction. The hearing in the circuit court shall be de novo and the judgment of the court shall be subject to review by the supreme court."

SECTION 100. Section 160-59 is amended to read:

"§ 160-59. **Appeal to circuit court.** Any applicant who has been refused a license after at least three examinations, or who has been refused any examination, and every licensee whose license has been suspended, revoked or cancelled by the examiner of chauffeurs, may appeal from such refusal, suspension, revocation or cancellation to the circuit court of the circuit in which the applicant or licensee resides by filing a notice of appeal in such court within thirty days after being notified of the refusal, suspension, revocation or cancellation. The appeal shall not operate as a stay to the order or decision appealed from. The appeal shall be subject to such procedure and rules as may be prescribed by the court and the decision of the court shall be final except as otherwise provided in chapter 6C."

SECTION 101. Section 163-2 is amended to read:

"§ 163-2. **Board of examiners.** The judge of the land court, the registrar of conveyances and the attorney general shall constitute a board of examiners whose duty it shall be to examine all applicants for licenses under this chapter. The board shall grant licenses to such persons as shall pass an examination satisfactory to the board and in its judgment are fit and proper persons to engage in such business; and the board may revoke or suspend any license issued under this chapter upon proof to its satisfaction of any malpractice, fraud, deceit, gross carelessness or misconduct on the part of the licensee. No license shall be revoked or suspended except upon due notice to the licensee of the charge against him and an opportunity for him to be heard in defense. The action of the board shall be final and not subject to review except as otherwise provided in chapter 6C."

SECTION 102. Section 164-4 is amended by amending paragraph (g) to read:

“(g) To make, amend and repeal, in conformity with chapter 6C and with the approval of the governor and the director of regulatory agencies, such rules and regulations as may be requisite to carry out the purposes of this chapter and maintain a high standard of integrity and dignity among certified public accountants and public accountants; provided, that members of the board who are not certified public accountants shall not act in respect of any matter relating only to certified public accountants and in respect of such matter, the action of the board shall be determined by the concurrence of not less than three members who are certified public accountants.”

SECTION 103. Section 164-11 is amended by amending the last paragraph to read:

“No certificate or registration shall be revoked or suspended except after a hearing, at which hearing at least a majority of the board shall be present. The attorney general or an attorney designated by him shall attend and act as the legal advisor of the board. Written notice of the proposed hearing as prescribed in section 6C-9 shall be mailed to the holder of the certificate or the registrant at his last known address at least twenty days before the date thereof. The board shall keep a complete record of all proceedings with respect to the revocation or suspension of any certificate or registration.”

SECTION 104. Section 165-6 is amended by amending the first paragraph to read:

“The commission shall adopt a seal and may make, amend and repeal such rules and regulations as it may consider necessary or expedient for the conduct of its business and the regulation of the matters herein committed to its charge. The rules and regulations when prescribed in conformity with chapter 6C shall have the force and effect of law.”

SECTION 105. Section 165A-4 is amended to read:

“§ 165A-4. Procedure in revocation or suspension of licenses.

(a) Actions to revoke or suspend licenses granted under this chapter shall be subject to chapter 6C and shall be commenced by a notice of hearing.

(b) The notice of hearing shall be served by certified mail to the accused's last known business address.

(c) The accused shall be given thirty days from the date of mailing such notice in which to answer.

(d) Any licensee whose license has been revoked or suspended may file an appeal to the circuit courts.

(e) Prosecution of such actions shall be conducted by the department of the attorney general.”

SECTION 106. Section 166-7 is amended by amending the first paragraph to read:

“The board shall be entitled to the services of the attorney general in connection with its affairs, and may compel the attendance of

witnesses upon subpoena, administer oaths, take testimony and do all other things necessary and proper to carry out this chapter in all matters within its jurisdiction. It shall adopt and have an official seal and make, subject to chapter 6C and with the approval of the governor and the director of regulatory agencies, bylaws and rules and regulations for the performance of its duties and the carrying on of its business and the enforcement of this chapter. It shall be provided with suitable office quarters by the State and shall hold at least two regular meetings during each year. It shall have a chairman, a vice-chairman and a secretary, and a quorum shall consist of not less than six members, one of whom shall be either the chairman or vice-chairman."

SECTION 107. Section 166A-4 is amended by amending the second sentence of paragraph (b) to read:

"All such rules and regulations shall be approved by the governor and the director of regulatory agencies, and when adopted pursuant to chapter 6C, shall have the force and effect of law."

SECTION 108. Section 166A-17 is amended by amending the first paragraph to read:

"In every case where it is proposed to refuse to grant a license or to revoke or suspend a license or to refuse to renew a license, the board shall give the person concerned notice and hearing in conformity with chapter 6C. The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing. The hearing whenever possible shall be held on the island on which the aggrieved party resides."

SECTION 109. Section 166A-18 is amended to read:

"§ 166A-18. **Appeal to circuit court.** An applicant who has been refused a license and every licensee whose license has been suspended, revoked or not renewed may appeal the board's decision to the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 6C."

SECTION 110. Section 168-8 is amended to read:

"§ 168-8. **Rules.** The attorney general, with the approval of the governor and subject to chapter 6C, may prescribe such rules and regulations as he may deem advisable concerning the administration of this chapter, the appointment and duties of notaries public and the duties of other officers thereunder. The rules or regulations shall have the force and effect of law."

SECTION 111. Section 170-4 is amended by amending the first two sentences of paragraph (b) to read:

"(b) Make, amend or repeal such rules and regulations as it may deem proper to fully effectuate this chapter and carry out its purpose, which purpose is the protection of the general public in its real estate transactions. All rules and regulations shall be approved by the governor and the director of regulatory agencies, and when adopted pursuant to chapter 6C shall have the force and effect of law."

SECTION 112. Section 170-13 is amended by amending the first paragraph to read:

"In every case where it is proposed to refuse to grant a license because of bad character or bad reputation for honesty, truthfulness or fair dealing, or to revoke or suspend the exercise of any license for any of the causes enumerated in section 170-12, the person concerned shall be given notice and hearing in conformity with chapter 6C. The notice shall be given at least five days before the hearing."

SECTION 113. Section 171A-21 is amended to read:

§ 171A-21. Denial, suspension or revocation of license; procedure; appeal. The board shall not deny any application for an original or renewal license or initiate any disciplinary action against any licensee except for probable cause. Before denying, suspending or revoking any license, the charges against the licensee shall be investigated by the commissioner. His findings shall be made known to the board and if the commissioner and at least two other members of the board concur, the matter shall be set for hearing. At least fifteen days prior to the date set for hearing, the commissioner shall furnish the applicant or licensee a notice in writing as prescribed by section 6C-9 and shall afford the applicant or licensee an opportunity to be heard in person and by or with counsel. Such written notice may be served by delivery personally to the applicant or the licensee or by mailing it by registered or certified mail with return receipt requested to the last known business address of the applicant or licensee. The hearing on the charges shall be held at such time and place as the commissioner shall prescribe. The commissioner shall have the power to issue subpoenas and bring before the board any person or relevant book or writing in this State, to swear witnesses and take the testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in courts of record of the State in civil cases. All evidence shall be under oath. Any party to any hearing shall have the right of subpoena to compel the attendance of witnesses and to cause the production of any books and writings in his behalf. If the board determines that any applicant is not qualified to receive a license, a license shall not be granted, and if the board determines that any licensee is guilty of a violation of any of the provisions of this chapter, his license may be suspended or revoked by the board; provided that four members of the board, one of whom must be the commissioner, concur in such determination. Any order denying a license, or suspending or revoking a license shall be rendered no later than fifteen days after the conclusion of the hearings. Any person aggrieved thereby may appeal to the circuit court of the county in which the applicant resides, or where the licensee has his principal place of business in the manner provided in chapter 6C. The circuit court shall, sitting as though a court of equity, try the matter anew and enter judgment forthwith based upon all the evidence presented to the court."

SECTION 114. Section 179-3 is amended by amending the second paragraph to read:

"If the director of regulatory agencies is not so satisfied without a hearing, he shall hold a hearing with respect to the matters in question, and may make investigation of any facts relating thereto. The director may prescribe rules and regulations for the proceedings in connection with any such hearing or investigation. Any decision of the director adverse to the applicant shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 6C. The court shall hear the appeal de novo without a jury."

SECTION 115. Section 180-11 is amended by amending the second paragraph to read:

"No application shall be disapproved except after the applicants have had 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, prepare and keep on file in his office, a written order or denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicants a copy thereof. Within ten days after the receipt of such copy the applicants may appeal from the order of denial to a board consisting of the director, comptroller and director of taxation by filing with the comptroller a notice of appeal. After notice by mail to the applicants and after a hearing at which the applicants 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 applicants by the bank examiner. The applicants may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicants propose to engage in business, as provided in chapter 6C."

SECTION 116. Section 181-62 is amended by amending subsection (a) to read:

"(a) The commissioner shall, not less than ten days in advance, give notice to each person to be affected by the hearing of the matters prescribed in section 6C-9."

SECTION 117. Section 181-66 is amended to read:

"**§ 181-66. Procedure.** (a) The commissioner shall preside at the hearing which shall be held in the manner provided in chapter 6C.

(b) A copy of the record of the proceedings shall be furnished any person affected by the hearing or any other person upon written request and at the expense of such person.

(c) Upon good cause shown, the commissioner may permit any person who has a valid interest in the proceeding to intervene, appear, and be heard at the hearing.

(d) Any person heard shall make full disclosure of facts pertinent to the subject of inquiry as requested by the commissioner or by any person affected by the hearing."

SECTION 118. Section 181-67 is amended by amending subsection (b) to read:

“(b) The order shall contain:

(1) A concise statement of the action taken.

(2) The effective date of such action.

(3) A designation of the provisions of this chapter pursuant to which the action is taken.

(4) Such other matters as may be required by section 6C-12.”

SECTION 119. Section 181-69 is amended to read:

“§ 181-69. **How appeal taken.** The appeal shall be taken in the manner provided in chapter 6C.”

SECTION 120. Section 181-70 is amended to read:

“§ 181-70. **Cost of record on appeal.** The cost of preparing the record on appeal may be included in the costs allowed by the court.”

SECTION 121. Section 181-71 is amended to read:

“§ 181-71. **Hearing the appeal.** The court shall give precedence to and may summarily hear and determine the appeal. The court shall hear the appeal upon the record in the manner provided in chapter 6C. Costs shall be awarded as in civil cases.”

SECTION 122. Section 181-72 is amended by amending subsections (a) and (b) to read:

“(a) The taking of an appeal shall not stay any action taken or proposed to be taken by the commissioner under the order appealed from unless a stay is granted by the commissioner or the reviewing court.

(b) In granting a stay of action, the commissioner or the court shall consider whether the stay would tend to injure the public interest, and may require of the person taking the appeal such security or other conditions as may be deemed proper.”

SECTION 123. Section 181-707 is amended as follows:

(a) By repealing subsection (b).

(b) By amending subsection (c) to read:

“(c) Any final order or decision of the commissioner may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be taken and had in the manner provided in chapter 6C.”

SECTION 124. Section 181-726 is amended as follows:

(a) By repealing subsection (b).

(b) By amending subsection (c) to read:

“(c) Any final order or decision of the commissioner may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be taken and had in the manner provided in chapter 6C.”

SECTION 125. Section 184-2 is amended to read:

“§ 184-2. **General power to make rules.** Subject to chapter 6C and with the approval of the governor, the fire marshal may make such regulations as he deems necessary relating to: (a) the prevention of

fires, and the inspection of property, periodically or otherwise, or for the prevention of or reduction of loss by fire, or to promote the safety of persons in case of fire; (b) the manufacture, storage, sale and use of combustibles and explosives; (c) the installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment; (d) fire escape and other means of exits from or access to buildings or parts of buildings or other property in case of fire.

Any other provisions of law to the contrary notwithstanding, the power of the fire marshal to make regulations shall extend to the exterior approaches to exits of places of assembly. The chiefs of police of the several counties shall enforce the regulations. The regulations when so made and published shall have the force and effect of law."

SECTION 126. Section 184-3 is amended to read:

"§ 184-3. The fire marshal may adopt by rules and regulations, with the approval of the governor, the conditions, provisions, limitations and terms of an electrical code, a storage of inflammables code, or any other standard code which contains conditions, provisions, limitations and terms printed as a code in book or pamphlet form, by reference to such code, or portions thereof, alone without setting forth in the rules and regulations of the fire marshal the conditions, provisions, limitations and terms of such code; and when such code, or portions thereof, have been incorporated by reference into any such rules and regulations of the fire marshal as aforesaid, it shall have the same force and effect of law as though it had been spread at large in such rules and regulations of the fire marshal without further or additional publication thereof; provided, that not less than three copies of each such standard code, or portions thereof, have been filed for use and examination by the public in the office of the clerk of each county prior to the adoption thereof; provided further, that the adoption of any such standard code by reference shall be construed to incorporate such amendments thereto as may be made therein from time to time, if the three copies of such standard code so filed shall at all times be kept current in the office of the clerk of such county. All ordinances of any county in conflict herewith are declared null and void."

SECTION 127. Section 184-14 is amended as follows:

(a) By repealing the second paragraph.

(b) By amending the last paragraph to read:

"The final order may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be taken and had in the manner provided in chapter 6C."

SECTION 128. Section 194-8 is amended by amending the last paragraph to read:

"Review of disapproval. 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, 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. Within ten days after the receipt of such 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 6C."

SECTION 129. Section 194-25 is amended by amending the last paragraph to read:

"The party affected by an order revoking or suspending a license may appeal to the circuit court of the circuit in which the applicant maintains his or its principal place of business, as provided in chapter 6C. After hearing, the court may order the bank examiner to reverse his decision as to revocation or suspension, or may affirm the action of the bank examiner."

SECTION 130. Section 195-13 is amended to read:

"§ 195-13. Appeals, record; stay, how obtained; hearings; further appeal. Within thirty days after notice is given of the entry of any final order or decision denying an application for or revoking or suspending a license or requiring the filing of an additional bond, any person, copartnership, association or corporation deeming himself or itself aggrieved by such order or decision, may appeal from such order or decision to the circuit court of the first circuit for the purpose of having the reasonableness or validity of the order or decision inquired into and determined. The director of regulatory agencies shall be made an appellee in all such cases.

The appeal shall be heard according to the manner of trial of suits before a circuit judge, sitting at chambers. Such appeal shall not of itself operate as a supersedeas or as a stay of the order or decision appealed from, except upon the express order of the director or the circuit court. The circuit court may affirm, vacate or modify the order or decision appealed from. The court may call witnesses or receive affidavits in reference to any controverted question of fact relating to the procedure before the director or deputy bank examiner.

Appeals from all final decisions or orders of the court shall lie to the supreme court. Such appeal shall not of itself operate as a stay of any order or decision appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, upon such conditions as it may deem proper."

SECTION 131. Section 199-19 is amended to read:

“§ 199-19. Appeals to circuit court, first circuit; time; bond; costs; trial de novo; decree; further appeal. An appeal may be taken by any aggrieved person from any final order of the commissioner to the circuit court of the first circuit in the manner provided in chapter 6C. The appellant shall execute a bond in the penal sum of \$1,000 to the State, with sufficient surety, to be approved by the commissioner or the court, conditioned upon the faithful prosecution of such appeal to final judgment, and the payment of all such costs as shall be adjudged against the appellant. The appeal shall be heard de novo, and it may be given precedence by the court over other matters pending in the court. The court shall receive and consider evidence, whether oral or documentary, concerning the order of the commissioner from whom the appeal is taken. If the order of the commissioner shall be reversed the court shall by its mandate specifically direct the commissioner as to his further action in the matter, including the making and entering of any order or orders in connection therewith, and the conditions, limitations or restrictions to be therein contained; provided that the commissioner shall not thereby be barred from thereafter revoking or altering such order for any proper cause which may thereafter accrue or be discovered. If the order shall be affirmed, the appellant shall not be barred after thirty days from filing a new application provided such application is not otherwise barred or limited. Such appeal shall not in anywise suspend the operation of the order appealed from during the pendency of such appeal unless upon proper order of the commissioner or the court. An appeal may be taken from the decree of the circuit court to the supreme court.”

SECTION 132. Section 204-9 is amended to read:

“§ 204-9. Appeal. Any person aggrieved by any action of the director of regulatory agencies under this chapter in issuing a certificate of registration of a print, label, trade mark or trade name or in revoking or cancelling any such certificate of registration or in denying an application may, within thirty days after such action by the director, or in the event no order has been entered either granting or denying the application within four months after the filing of such application, commence proceedings to obtain judicial review thereof by the circuit court of the first circuit by filing in the court a notice of appeal. The trial by the circuit court of any such proceeding shall be de novo. Proceedings for review by the supreme court may be had and taken in the same manner as is provided for a review of a judgment of a circuit court.”

SECTION 133. Section 215-27 is amended by amending the first two paragraphs to read:

“The orders or determinations of any administrator appointed or any commission, board or tribunal created to execute and administer the power conferred by subsection (k) of section 144-33 and subsection 4 of section 149-86, shall be subject to judicial review as provided in this section. Within thirty days from the date upon which any such order or determination becomes final and no administrative remedy for review thereof remains available, any party aggrieved

thereby may commence proceedings to obtain judicial review thereof by the circuit court of the judicial circuit in which the administrator, commission, board or tribunal is functioning, by filing in the court a notice of appeal. Every party to the proceeding which resulted in the order or determination, including the administrator, commission, board or tribunal, shall be made a party respondent. The administrator, commission, board or tribunal whose order or determination is sought to be reviewed shall certify and file with the court a copy of the record of the case, in such form and including such matters as may be prescribed by the court, and shall appear in the proceedings before the court, by its counsel or other representative, and submit oral or written arguments to support its order or determination, together with such evidence as it deems advisable.

The hearing before the court shall be a hearing de novo, and each party shall have the right to introduce evidence, or the court may, of its own motion, require the taking of such evidence as the court deems proper. The court shall determine all questions of fact and all questions of law involved in the appeal; provided that in all appeal cases in which a trial by jury is had the cause shall be submitted to the jury on questions of fact stated to them by the court pursuant to section 231-27. The right of trial by jury shall be deemed to be waived unless claimed in the manner provided by the Hawaii rules of civil procedure."

SECTION 134. Section 351-2 is amended by amending the first paragraph to read:

"The commission is authorized to create and maintain a living war memorial commemorating the sacrifices of our heroic dead of world war II; to accept lands or other property or assets transferred to it by the State or any county for the accomplishing of its objectives; to adopt a seal; to adopt such rules and regulations as it may consider necessary or expedient for the conduct of its affairs and the regulation of the matters herein committed to its charge. Such rules and regulations shall be adopted subject to chapter 6C and shall have the force and effect of law."

SECTION 135. Section 359-24 is amended as follows:

(a) By amending the second paragraph to read:

"The provisions of section 6C-3 shall apply to those rules and regulations of the governor that are prescribed prior to a civil defense emergency period but not otherwise; provided, that notwithstanding the provisions of section 359-5, the public hearings on the rules and regulations, when so required to be held, may be held by such person as the governor may thereunto authorize, who shall make a report thereon to the governor."

(b) By amending the first sentence of the last paragraph to read:

"Rules and regulations prescribed pursuant to this chapter shall be promulgated as herein provided, and may be made effective upon such promulgation, in lieu of the provisions of section 6C-4 relating thereto."

SECTION 136. Section 181-35 is amended by amending subsection (c) (1) to read:

“(1) Make, subject to chapter 6C, reasonable rules and regulations for effectuating any provision of this chapter, except those relating to his appointment, qualifications, or compensation.”

SECTION 137. Section 181-36 is amended by adding to subsection (b) the following clause:

“(4) Contain such other matters as may be required by section 6C-12.”

SECTION 138. Chapter 181 is amended by adding a new section to read:

“§ 181-74. **Administrative procedure act applies.** The rules, hearings and appeals provided for in this chapter are in all applicable respects subject to chapter 6C, unless it is expressly provided otherwise.”

SECTION 139. Chapter 6C is amended as follows:

a. by adding a new subsection to section 6C-3 to be designated and to read:

“(d) The adoption, amendment or repeal of any rule by any state agency shall be subject to the approval of the governor. The adoption, amendment or repeal of any rule by any county agency shall be subject to the approval of the chairman of the board of supervisors or the mayor of the county. The provisions of this subsection shall not apply to the adoption, amendment and repeal of the rules and regulations of the county boards of water supply.”

b. by amending section 6C-4 (a) to read:

“(a) Each agency adopting, amending or repealing a rule, upon approval thereof by the governor or chairman of the board of supervisors or the mayor of the county, shall file forthwith certified copies thereof with the lieutenant governor in the case of the State, or with the clerk of the county in the case of a county. In addition, the clerks of all of the counties shall file forthwith certified copies thereof with the lieutenant governor. A permanent register of such rules, open to public inspection, shall be kept by the lieutenant governor and the clerks of the counties.”

SECTION 140. Section 14A-4(c) is amended to read:

“(c) All rules and regulations adopted by the board or commission shall be subject to the approval of the governor.”

SECTION 141. All matter appearing in strike-out type in this bill is repealed and in printing this Act, the revisor of statutes shall not include any matter appearing in strike-out type and shall include the underscored matter without the underscoring.

SECTION 142. This Act shall take effect upon its approval.

(Approved May 21, 1965.) H.B. 867.