

ACT 87

S.B. NO. 636

A Bill for an Act Relating to the Hawaii Regulatory Licensing Reform Act.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)

(b) The following chapters are hereby repealed effective December 31, 1980:

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- (1) Chapter 436 (Board of Examiners for Abstract Makers)
 - (2) Chapter 468J (Travel Agencies)
 - (3) Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
- (1) Chapter 441 (Cemetery Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 459 (Board of Examiners in Optometry)
 - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
 - (7) Chapter 468E (Board of Speech Pathology and Audiology)
 - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, [1982:]

1983:

- (1) Chapter 436D (Board of Acupuncture)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 442 (Board of Chiropractic Examiners)
 - (4) Chapter 448E (Board of Electricians and Plumbers)
 - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
 - (6) Chapter 466 (Board of Public Accountancy)
 - (7) Chapter 467 (Real Estate Commission)
 - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, [1983:]

1984:

- (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448 (Board of Dental Examiners)
 - (3) Chapter 453 (Board of Medical Examiners)
 - (4) Chapter 457 (Board of Nursing)
 - (5) Chapter 460 (Board of Osteopathic Examiners)
 - (6) Chapter 460J (Pest Control Board)
 - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, [1984:]

1985:

- (1) Chapter 455 (Board of Examiners in Naturopathy)
 - (2) Chapter 463E (Podiatry)
 - (3) Chapter 438 (Barbering, Practice of)
 - [[(4)] Chapter 439 (Beauty Culture)
 - (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (7) Chapter 458 (Board of Dispensing Opticians)
 - (8) Chapter 452 (Board of Massage)
- (g) The following chapters are hereby repealed effective December 31, [1985:]

1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]

(2) Chapter 440 (Boxing Commission)

(h) The following chapters are hereby repealed effective December 31, [1986:] 1987:

(1) Chapter 447 (Dental Hygienists)

[[(2)] Chapter 463 (Board of Private Detectives and Guards)

[[(3)] Chapter 471 (Board of Veterinary Examiners)[.]

(i) The following chapters are hereby repealed effective December 31, 1988:

(1) Chapter 468E (Board of Speech Pathology and Audiology)

(2) Chapter 465 (Board of Certification for Practicing Psychologists)

(3) Chapter 459 (Board of Examiners in Optometry)."

SECTION 2. Chapter 26H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§26H- Period of reenactment. (a) Any chapter repealed by section 26H-4 may be reenacted by the legislature for no more than a six-year period following each evaluation required by section 26H-5.

(b) Any chapter repealed by section 26H-4 may be reenacted for a period up to ten years if the legislature elects to continue the chapter which has been previously reviewed and reenacted twice within a ten-year period under this chapter.

(c) The legislative auditor shall, in the evaluation report under section 26H-5, inform the legislature if the chapter which is the subject of the evaluation report falls within subsection (b)."

SECTION 3. Section 26H-5, Hawaii Revised Statutes, is amended to read as follows:

"§26H-5 Evaluation; report. (a) The legislative auditor shall evaluate each board, commission, and regulatory program created under a chapter repealed by section 26H-4 and shall submit an evaluation report to the legislature prior to the convening of the regular session of the year of the repeal date; provided that the legislative auditor shall evaluate each board, commission, and regulatory program at least once every ten years. The evaluation shall assess whether the regulatory program established by the chapter complies with the policies established by section 26H-2 and whether the public interest requires that the chapter be reenacted, modified, or permitted to expire. Each board or commission and the director shall assist the auditor in collecting and reporting such data as the auditor may require to conduct the evaluation. Even if the auditor finds that the chapter should not be reenacted, the auditor shall evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve the policies, procedures, and practices. The legislature may hold a public hearing on each evaluation report. If the auditor finds that a regulatory program within the chapter should be permitted to expire, the auditor shall make recommendations, if needed, for appropriate restrictions to be placed on the program subsequent to the termination of regulation.

(b) The legislative auditor shall provide each board, commission, or regulatory program evaluated pursuant to this chapter not less than thirty days to review and comment upon the evaluation report prior to submission of the report to the legislature; provided that if the legislative auditor fails to provide the thirty day

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review and comment period to the board, commission, or regulatory program being evaluated, the chapter subject to repeal shall be automatically reenacted for a period of one year. If the legislative auditor receives written comments from the board, commission, or department of regulatory agencies, the legislative auditor shall append the written comments to each copy of the evaluation report prior to submission to the legislature.”

SECTION 4. The effect of the first section of this Act is the postponement of all sunset reports for one year. During the one year hiatus, the legislative auditor will not be evaluating boards or submitting reports pursuant to Chapter 26H.

During legislative review of earlier auditor's sunset reports, the boards have alleged that the fault was not in the board but in the department of regulatory agencies. They complained, particularly, about the complaint handling process and felt that the delays in complaint handling were due to the department and not the board. Complaints were also heard regarding testing and levels of staff support.

The legislature finds that future sunset reports would be more meaningful if we first address the relationship between the boards and the department. The legislative auditor is, therefore, directed to use the hiatus created by this Act to prepare an evaluation of the department of regulatory agencies regulated industries program and related functions, including but not limited to its interface with the office of consumer protection. The evaluation shall be submitted to the legislature prior to the convening of the 1982 session; provided that the department of regulatory agencies be provided thirty days to review the report prior to it being submitted to the legislature. The legislative auditor shall append any written comments received from the department to the report.

SECTION 5. All acts passed by the legislature during this Regular Session of 1981, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act.

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

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

(Approved June 2, 1981.)

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