

**ACT 68**

**S.B. NO. 434**

**A Bill for an Act Relating to Statutory Revision: Amending Various Provisions of the Hawaii Revised Statutes for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.**

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

**SECTION 1.** Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

SECTION 2. Section 91-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding the foregoing, if an agency finds that an imminent peril to the public health, safety, or morals or to livestock and poultry health requires adoption, amendment, or repeal of a rule upon less than twenty days’ notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing [ [ ]or[ ] ] upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.”

SECTION 3. Section 187-18, Hawaii Revised Statutes, is amended to read as follows:

“§187-18 Informer’s fee. One-half of the fine imposed and collected in all cases wherein the defendant has been convicted for a violation of any of the provisions of this chapter and chapters 188, 189 except [parts] part II, [and III,] and 191, shall be paid to the person giving the information leading to the arrest of the person so convicted; provided[,] that this section shall not apply if the informer is a regular salaried sheriff, deputy sheriff, police officer, warden [or], constable, or officer or agent of the department of land and natural resources.”

SECTION 4. Section 226-52, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The statewide planning system shall also consist of several implementation mechanisms:

- (1) The overall review, coordination, and evaluation process. The overall review, coordination, and evaluation shall be conducted by the policy council, with the assistance of the department.
- (2) The state budgetary, land use, and other decision-making processes. The state budgetary, land use, and other decision-making processes shall consist of:
  - (A) Program appropriations process. The appropriation of funds for major programs under the biennial and supplemental budgets, shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.
  - (B) Capital improvement project appropriations process. The appropriation of funds for major plans and projects under the

capital improvements program shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.

- (C) Budgetary review process of the department of budget and finance. The budgetary review and allocation process of the department of budget and finance shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.
  - (D) Land use decision-making processes of state agencies. Land use decisions made by state agencies shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter. The rules adopted by appropriate state agencies to govern land use decision-making shall be in conformance with the overall theme, goals, objectives, and policies contained within this chapter.
  - (E) All other regulatory and administrative decision-making processes of state agencies shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter. Rules adopted by state agencies to govern decision-making shall be in conformance with the overall theme, goals, objectives, and policies contained within this chapter.
- (3) Other coordination processes which include the use of the [A-95] state clearinghouse process. The state clearinghouse shall coordinate the review of all [projects requiring federal funding] federally-assisted and direct federal development projects which are covered under the state clearinghouse process and shall notify the policy council of all proposed federally-assisted or direct federal development projects which conflict with this chapter, or any functional plan adopted under this chapter.”

SECTION 5. Section 227-2, Hawaii Revised Statutes, is amended to read as follows:

“[ [ ]§227-2[ ] ] **Managing board; composition.** The natural energy laboratory of Hawaii shall be under the general control and management of a managing board consisting of seven ex officio voting members. The director of planning and economic development, the [chairman] chairperson of the board of land and natural resources, the marine affairs [coordinator,] advisor, two officers or employees of the University of Hawaii as designated by the president of the university, and two officials of the county of Hawaii as designated by the mayor of the county of Hawaii shall be the members of the managing board.”

SECTION 6. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the responsible physician concludes that the patient no longer meets the criteria for emergency hospitalization the physician shall discharge [him.] the patient. If the patient is under criminal charges, [he] the patient shall be returned to the custody of a law enforcement officer. In any event, the patient must be released within forty-eight hours of [his] the patient’s admission, unless the patient voluntarily agrees to further hospitalization, or a proceeding for court-ordered evaluation [and/] or hospitalization, or both, is initiated as provided in section [334-60(b)(2).] 334-60.3. If that time expires on a Saturday, Sunday, or holiday, the time for initiation is extended to the close of the next court day. Upon initiation of the proceedings the facility shall be authorized to detain the patient until further order of the court.”

SECTION 7. Section 334-61, Hawaii Revised Statutes, is amended to read as follows:

“[ [ ]§334-61[ ] ] **Presumption; civil rights.** No presumption of insanity or legal incompetency shall exist with respect to any patient by reason of [his] the patient’s admission to a psychiatric facility under this chapter. The fact of the admission shall not in itself modify or vary any civil right of any such person, including but not limited to civil service statutes or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law, or the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and to vote. If the administrator of a psychiatric facility or [his] the deputy is of the opinion that a patient should not exercise any civil right, application for a show cause order shall be made to the court under the above proceedings after notice pursuant to section [334-60(b)(3).] 334-60.4.”

SECTION 8. Section 334-71, Hawaii Revised Statutes, is amended to read as follows:

“§334-71 **Transfer of patients between facilities.** A patient at a psychiatric facility, including those held on court order, may be transferred to another psychiatric facility when the administrator of the sending facility determines that it would be in the best interest of the patient that the patient be transferred and the administrator of the receiving facility agrees to accept the patient; provided that prior notice of such transfer be given to the subject of such transfer and to those persons specified in a current order of commitment. If there is no current order of commitment, notice shall be given to those persons enumerated in section [334-60(b)(3).] 334-60.4.”

SECTION 9. Section 334-74, Hawaii Revised Statutes, is amended to read as follows:

“§334-74 **Transfer of residents of correctional facilities.** If any resident of a state correctional facility is in need of hospital treatment for mental illness or substance abuse, the director of social services or the officer in charge of the correctional facility may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist employed by the department of health showing the need for such hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of social

services, and, if the continued hospitalization of the resident beyond the expiration of the period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident's release from the state correctional facility; provided that a judicial hearing pursuant to [section 334-60(b)] sections 334-60.2 to 334-60.7 be held by the same circuit court that sentenced such resident. In the event that discharge from the hospital occurs before the expiration of the maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility. As used in this section, "resident" means any person serving a sentence in a state correctional facility or any child or minor detained in a state correctional facility."

SECTION 10. Section 334-76, Hawaii Revised Statutes, is amended to read as follows:

"**§334-76 [[NEW]] Discharge from custody.** Subject to any special requirements of law as provided in sections 704-406, 704-411, and 706-607 or elsewhere, with respect to patients committed on court order, the administrator of a psychiatric facility, [shall,] pursuant to section [334-60(b)(6),] 334-60.7, shall send a notice of intent to discharge to those persons specified in the order of commitment as entitled to receive notice of intent to discharge and the administrator or [his] the deputy or the physician assuming medical responsibility for the patient shall discharge an involuntary patient when [he] the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization [ [in[ ] ] section [334-60(b)(1).] 334-60.2."

SECTION 11. Section 408-18, Hawaii Revised Statutes, is amended to read as follows:

"**§408-18 Discount with recourse.** In the event a licensee acquires a [retail installment] credit sale contract, as defined in section 476-1, from a [retail] credit seller under an agreement the effect of which is that the licensee does not suffer loss if the [retail] credit buyer does not perform the [retail installment] credit sale contract, then at the time the licensee acquires the [retail installment] credit sale contract the licensee is required to:

- (1) Obtain from the [retail] credit seller a statement which contains the information required to be given to the [retail] credit buyer by sections [476-3] 476-4 and [476-29;] 476-24; and
- (2) Either possess a written agreement which fully sets forth the terms under which contracts originated by the [retail] credit seller will be acquired by the licensee, including reference to any retention by the licensee of proceeds of acquisition to be held as a reserve fund by the licensee, or render to the [retail] credit seller, at the time the contract is acquired, a statement of the transaction[,] covering the acquisition of the particular [retail installment] credit sale contract."

SECTION 12. Section 437-1.1, Hawaii Revised Statutes, is amended to read as follows:

"**§437-1.1 Definitions.** As used in this chapter:

[ (1) "Auction" means any person engaged in the business of selling motor vehicles by means of bidding at a public or private sale, but excludes an auctioneer and any person referred to in [item (6)(A), (B), (D), or (E)] paragraph (1), (2), (4), or (5) in the definition of dealer when the auctioneer or person acts in [his] the respective capacity described in this section.

[(2)] "Auctioneer" means a person who, for gain or compensation of any kind, sells or offers for sale or exchange, motor vehicles or any interest therein by means of soliciting bids on behalf of an auction.

[(3)] "Board" means the motor vehicle industry licensing board created by this chapter.

[(4)] "Business" includes any activities regularly engaged in by any person or regularly caused to be engaged in by [him] the person for the object of gain, benefit, or advantage, either direct or indirect.

[(5)] "Consumer" means any person who purchases, other than for purposes of resale, a motor vehicle for personal, family, household, or business use, any person to whom such motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

"Credit sale contract" is defined as provided for in section 476-1.

[(6)] "Dealer" includes any person not expressly excluded by this chapter engaged in the business of selling, soliciting, offering, or attempting to negotiate sales, purchases, or exchanges of motor vehicles or any interest therein, including options to purchase motor vehicles. "New motor vehicle dealer" means a dealer who engages in the business of selling at wholesale or retail, or both, new motor vehicles or new and used motor vehicles. "Used motor vehicle dealer" means a dealer who engages in the business of selling at wholesale or retail, or both, only used motor vehicles. The term "dealer" excludes a person who sells or purchases motor vehicles in the capacity of:

[(A)] (1) A receiver, trustee, personal representative, guardian, or any other person appointed by or acting under a judgment or order of any court; [or]

[(B)] (2) A public officer while performing [his] official duties; [or]

[(C)] (3) A holder of a license issued under this chapter, other than a dealer, when acting within the scope of the license; [or]

[(D)] (4) An insurance company, finance company, bank, or other financial institution selling or offering for sale motor vehicles repossessed or foreclosed by it under the terms of a [retail installment sales] credit sale contract or security agreement; or

[(E)] (5) A person not engaged in the business of selling or purchasing motor vehicles when acquiring or disposing of motor vehicles for their own personal, family, or business use; provided such vehicles are acquired or disposed of for such use in good faith and not for the purpose of evading any provisions of this chapter.

[(7)] "Distributor" means any person, resident or nonresident, including a manufacturer, who in whole or in part offers for sale, sells, or distributes new motor vehicles to dealers.

[(8)] "Distributor branch" means any office or establishment maintained by a distributor which is not at the same address as the distributor and is used, either directly or indirectly, for the purpose of selling, offering for sale, promoting the sale of, or distributing new motor vehicles to dealers, or for the purpose of directing or supervising, in whole or in part, factory or distributor representatives.

[(9)] "Distributor representative" means any representative, employee, agent, contractor, or any person, other than an independent advertising agency, employed by or under a contract with a distributor, directly or indirectly, for the purpose of selling, promoting the sale of, or distributing new motor vehicles or

for the purpose of supervising or regulating the business affairs of motor vehicle dealers or prospective dealers.

[(10)] "Factory branch" means any office or establishment maintained by a manufacturer, directly or indirectly, for the purpose of selling, offering for sale, or promoting the sale of new motor vehicles to a distributor or dealer, or for directing or supervising, in whole or in part, factory or distributor representatives.

[(11)] "Factory representative" means a representative, employee, agent, contractor, or any person, other than an independent advertising agency, employed by a manufacturer or factory branch for the purpose of selling or promoting the sale of new motor vehicles of such manufacturer or for supervising the franchised dealers or prospective dealers of such manufacturer.

[(12)] "Franchise" means any contract or agreement between a dealer and a manufacturer or distributor or branches or representatives thereof, which authorizes the dealer to engage in the business of selling or purchasing any particular make or makes of new motor vehicles or parts therefor manufactured or distributed by such manufacturer or distributor.

[(13)] "Manufacturer" means any person, resident or nonresident, who is engaged in the business of manufacturing or assembling new motor vehicles.

[(14)] "Motor vehicle" includes any vehicle, motor vehicle, or truck, as defined in sections 249-1 and 249-2, except for tractors, trailers, and amphibious vehicles.

[(15)] "New motor vehicle" means a motor vehicle which [(A)] (1) has not previously been sold to any person except a distributor, wholesaler, or dealer for resale, except where the vehicle has not left the dealer's possession after the sale to a consumer [and (B)], (2) has not previously been registered or titled in the name of a consumer except where the vehicle has not left the dealer's possession after the sale to a consumer, and [(C)] (3) has not been driven more than five hundred miles; provided[,] that where a sale, registration, entitlement, or transfer of title of a motor vehicle, or the accrual of mileage thereon, is primarily for the purpose of evading this provision, the motor vehicle shall be deemed a new motor vehicle for the purposes of this chapter.

[(16)] "Person" is defined as provided for in section 1-19.

[(17)] "Premises" or "licensed premises" means the premises in connection with which a license has been, or is proposed to be, issued, including branch locations. The term "premises" or "licensed premises" is substituted for the term "place of business" wherever found in this chapter.

[(18)] "Retail", "sale at retail", "retail sale", and equivalent expressions, mean the act or attempted act of selling a motor vehicle to a person for use as a consumer.

[(19)] "Retail installment contract" is defined as provided for in section 476-1.

(20) "Sale", "selling", and equivalent expressions, mean the act or attempted act, either as principal or an agent or in any capacity whatsoever, of selling, bartering, exchanging, or otherwise disposing of, or negotiating, or offering, or attempting to negotiate the sale, purchase, or exchange of, or interest in, a motor vehicle, including an option to purchase a motor vehicle.

[(21)] "Salesman" "Salesperson" means any person who for gain or compensation of any kind, directly or indirectly, by any form of agreement or arrangement, sells, solicits, offers for sale, exchanges, or otherwise deals in, motor vehicles or any interest therein on behalf of any motor vehicle dealer.

[(22)] "Treasurer" means the director of finance of each county.

[(23)] "Used motor vehicle" means a motor vehicle other than a new motor vehicle.

[(24)] "Wholesale" or "sale at wholesale" or "wholesale sale" and equivalent expressions, mean any sale other than a retail sale."

SECTION 13. Section 442-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The examinations [shall be in the subjects enumerated in section 442-2 and] shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The examination shall include both practical demonstration and a written examination. The board may accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners' examination in lieu of the written portion of the state board of chiropractic examiners' examination. A license shall be granted to any applicant who attains a score of seventy-five per cent[,] or higher in all subjects and sections of the examination. Any applicant failing to make the required grade[,] may be reexamined at the next regular examination [on all of the subjects mentioned in section 442-2,] upon payment of a reexamination fee."

SECTION 14. Section 453-2, Hawaii Revised Statutes, is amended to read as follows:

"§453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce one's self, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to one's name, with the intent thereby to imply that the individual is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of one's official duty, nor to any practitioner of medicine and surgery from another state [ [ ]when in actual consultation with a licensed practitioner of this State if the practitioner from another state[ ] ], at the time of such consultation, is licensed to practice in the state in which [he] such practitioner resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; or
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services or any physician assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall

not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services or physician assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant."

SECTION 15. Section 465-7, Hawaii Revised Statutes, is amended to read as follows:

**"§465-7 Requirements for licensing.** Every applicant for a license as a psychologist shall submit evidence satisfactory to the board that the applicant meets the requirements set forth in paragraphs (1) and (2), or (3), and (4):

- (1) Is professionally competent and has demonstrated knowledge in the practice of psychology.
- (2) Holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board.
- (3) Holds a diplomate certificate in good standing granted by the American Board of Examiners in Professional Psychology.
- (4) Has passed an examination as may be prescribed by the board."

SECTION 16. Section 481C-6, Hawaii Revised Statutes, is amended to read as follows:

**"§481C-6 Compliance with [retail installment] credit sale contract law.** If the contract referred to in section 481C-1 is a [retail installment] credit sale contract, the seller must also comply with the requirements of chapter 476."

SECTION 17. Section 486K-3, Hawaii Revised Statutes, is amended to read as follows:

**"[ [§486K-3[ ] ] Sale of detained baggage; notice; disposition of proceeds.** All baggage and property so held by the keeper of the hotel [shall], after the expiration of three months from the date of the detention, shall be sold at public auction, after notice thereof published three times in a newspaper of general circulation in the county where the hotel is kept. The proceeds thereof shall be applied to the payment of the amount due and the expenses of the notice and sale. The balance, if any remaining, shall be paid over to the owner of the property or [his] the owner's representative. If the balance is not claimed by the owner within sixty days after sale, then the balance shall be paid over to the director of finance of the State and shall be kept by [him] the director in a special deposit for payment to the owner and shall be disposed of as provided in chapter [523.] 523A."

SECTION 18. Section 490:9-203, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

**"(4)** A transaction, although subject to this article, is also subject to chapter 408 (industrial loan act), chapter 409 (small loan act), and chapter 476 [(retail installment sales act),] (credit sales act), and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein."

SECTION 19. Section 502-52, Hawaii Revised Statutes, is amended to read as follows:

**“§502-52 Signatures of certain state officers, acknowledgments not required.** In the case of an official signature entitled to be judicially noticed pursuant to section [622-23,] 626-1, rule 901 or 902, the signature shall suffice to show due execution by the officer signing the instrument and the officer is not required to acknowledge the instrument in order to entitle it to be recorded.”

SECTION 20. Section 507-15, Hawaii Revised Statutes, is amended to read as follows:

**“§507-15 Application of proceeds of sale.** Out of the proceeds of sale pursuant to section 507-14, the holder of the lien may retain the amount of the lien, plus twenty-five per cent thereof to cover expenses incurred in connection with the storage, handling, and sale of the article or lot of articles sold. Any balance remaining of the sale price of each article or lot of articles sold which is not claimed by the owner thereof within thirty days from the date of sale shall be deposited with the director of finance of the State for payment to the owner and shall be disposed of as provided in chapter [523.] 523A.”

SECTION 21. Section 507-65, Hawaii Revised Statutes, is amended to read as follows:

**“[ ]§507-65[ ] Final demand and notice of sale.** If both notices have been sent, as required by sections 507-63 and 507-64, and the total sum due has not been paid as specified in the two prior notices, the owner may prepare for the sale of the occupant’s property. The owner shall then send to the occupant, addressed to the occupant’s last known address, postage prepaid:

- (1) A notice of final demand and sale which shall state all of the following:
  - (A) That the sums due for rent and charges demanded have not been paid.
  - (B) That the occupant’s right to use the designated storage space has been terminated.
  - (C) That the occupant no longer has access to the stored property.
  - (D) That the stored property is subject to a lien and the amount of the lien.
  - (E) That the property will be sold to satisfy the lien after a specified date which is not less than thirty days from the date of mailing the notice unless prior to the specified date, the lien is paid in full.
  - (F) That any excess proceeds of the sale over the lien amount of costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of one year from the sale and that thereafter the proceeds will go to the State under chapter [523.] 523A.
  - (G) That if the proceeds of sale do not fully cover the amount of lien and costs, the occupant will be held liable for any deficiency.
- (2) An itemized statement of the owner’s claim showing all sums due at the time of the notice and the date when sums became due.”

SECTION 22. Section 507-66, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

**“(b)** The sale shall be conducted in a commercially reasonable manner; and, after deducting the amount of the lien and costs, the owner shall retain any

excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at anytime within one year of the date of sale. Thereafter, the owner shall pay any remaining excess proceeds to the State as provided in chapter [523.] 523A."

SECTION 23. Section 531-33, Hawaii Revised Statutes, is amended to read as follows:

**"§531-33 Procedure to dispose of unclaimed personalty.** Whenever the personal representative of an estate is unable to discover any living heirs or legatees of [his] the decedent, [he] the personal representative shall give notice to all heirs or legatees by publication in such newspaper or newspapers and for such time as the court or registrar may direct, but not less than once a week for three successive weeks, of the date of the hearing upon [his] the personal representative's final accounts or the date on which [his] the personal representative's closing statement will be approved if no objection is filed, which notice shall direct all claimants of a distributive share in the estate of [his] the decedent to appear and present their claims at the hearing or in writing prior to the date on which the closing statement will be approved if no objection is filed; provided that the time allowed for presentation of claims shall be not less than ninety days after the first publication of the notice.

If no claims are presented within the prescribed time, or if such claims as may be allowed do not exhaust the personalty of the estate, any personal estate remaining after the settlement and approval of the final accounts of the personal representative, and the payment of such distributive shares as may be allowed by the court or registrar shall upon order of the court be transferred to the state director of finance by the personal representative.

The director shall cause to be sold at public auction all such personalty as is so transferred [to him], except cash or bonds of the State.

The personal estate shall be disposed of as provided in chapter [523.] 523A."

SECTION 24. Section 531-34, Hawaii Revised Statutes, is amended to read as follows:

**"§531-34 Payments into court.** When property is distributed to a distributee, legatee, heir, or beneficiary who cannot be found, or who refuses to accept the same, or to give a proper voucher therefor, and the same consists of money, or corporate stocks, or bonds, the personal representative or trustee may deposit the property, in the name of the person entitled thereto, with the clerk of the circuit court in which the estate is pending in probate, or, in the case of a trust, with the clerk of the circuit court having jurisdiction over the subject matter of the trust, who shall give a receipt therefor and be liable upon [his] official bond therefor and be subject to chapter [523.] 523A. The receipt shall be deemed and received with the same force and effect as if executed by the distributee, legatee, heir, or beneficiary. Any personal representative or trustee under this section shall submit to the clerk of court, at the time of making the deposit, an affidavit setting forth the period of time the money, or corporate stocks, or bonds have been in affiant's possession."

SECTION 25. Section 532-14, Hawaii Revised Statutes, is amended to read as follows:

**“§532-14 Disposition by State.** If the intestate leaves no kindred, [his] the intestate’s estate shall be disposed of as provided in chapter [523.] 523A.”

SECTION 26. Section 560:3-1210, Hawaii Revised Statutes, is amended to read as follows:

**“§560:3-1210 Undistributed proceeds or balances, disposition.** When any balance remains in the hands of the clerk, after payment in the order specified in section 560:3-805, and no heirs or devisees of the decedent, entitled to the balance, can be located after reasonable search and inquiry, the clerk, after the expiration of one year after the first publication, shall report the fact to the court, which shall forthwith enter an order forwarding such property to the state director of finance, and the clerk thereupon shall immediately deposit the money or funds, or any balance, with the director for disposition as provided in chapter [523.] 523A. The director at any time may authorize the payment out of the general funds of the State of any amount so forwarded to any person who establishes to the satisfaction of the director that [he] the person is legally entitled thereto as an heir or devisee of the decedent, and the person shall be entitled to receive the amount thereof out of any moneys in the treasury not otherwise appropriated, upon warrant drawn by the state comptroller.”

SECTION 27. Section 560:3-1212, Hawaii Revised Statutes, is amended to read as follows:

**“§560:3-1212 Estates of persons, leaving no known relatives.** Every coroner, or medical examiner, who is called to investigate the death of any person leaving no known spouse, issue, parent, grandparent, or issue of grandparents over the age of majority in the State, shall take immediate charge of such decedent’s personal effects and if in the discretion of the coroner the value of such personal effect is in excess of \$100, forthwith deliver them to the clerk of the court of the judicial circuit in which such decedent died.

If after ten days no person appears, competent to initiate appropriate probate proceedings, the clerk shall administer the estate pursuant to the provisions of this part 12; provided[,] that, if such decedent’s estate be of a value exceeding \$20,000, the clerk shall notify the judge of such circuit having charge of the probate calendar, and shall petition for the appointment of a personal representative of such estate other than the clerk. In the meantime the clerk may take such steps as may be appropriate to preserve and conserve the real and personal property of the decedent. All expenses in connection with the taking possession, care, and conservation of the property and with such proceedings shall be proper charges against the estate of the decedent. The corporation counsel or county attorney of each county shall advise, assist, and represent as far as necessary any of such officers in the performance of any act or the institution or prosecution of any proceeding required by this section.

If such decedent’s estate be of a value not exceeding \$100 and such decedent has no known relatives or whose relatives have failed to indicate any means of disposition of such estate, then the coroner, or medical examiner, having custody of such property shall dispose of such property in an appropriate manner, which may be any one of the following or a combination thereof:

- (1) Where the estate consists only of money and is not in excess of \$100 and expenditures have been made in connection with such death, to reimburse the appropriate city and/or county office which made the disbursement to defray said expenses;
- (2) Where the estate consists of cash [and/or] or personal belongings of monetary value, or both, not exceeding \$100, to liquidate [said] the

- personal belongings and apply the proceeds, together with the cash, if the total does not exceed \$100, in accordance with paragraph [1 hereinabove set forth;] (1);
- (3) Where the assets in the estate are of no monetary value (unsaleable) and in [his] the best judgment and discretion of the coroner or medical examiner can be used by some charitable institution, to donate [said] the assets to whatever charitable institution is willing and able to pick up the assets in question;
  - (4) Where the assets have no value whatsoever or are in such condition that, in [his] the best judgment and discretion[,] of the coroner or medical examiner, a charitable institution cannot use [said] the properties, or will not receive [said] the properties, to destroy the same in any manner [he] the coroner or medical examiner sees fit; and
  - (5) If under paragraphs (1) and (2), there are assets remaining, then [he] the coroner or medical examiner shall forthwith forward the same to the state director of finance for disposition as provided in chapter [523.] 523A.”

SECTION 28. Section 560:3-1213, Hawaii Revised Statutes, is amended to read as follows:

“**§560:3-1213 Estates not in excess of \$2,000.** Upon the death of any person dying intestate and leaving only personal property in the State not exceeding \$2,000 and where a personal representative has not been appointed in the State, a clerk of the court of the judicial circuit wherein the person was domiciled or if not domiciled in the State, the judicial circuit wherein [he] the person was residing or had personal property at the time of [his] death, [may,] upon the filing with the clerk by any interested person of a death certificate issued by a government agency and of an affidavit setting forth the above facts, the names of the heirs if known, and other pertinent facts as required by the clerk, may collect or otherwise reduce to possession or turn into cash all assets of the estate. If after payment of funeral expenses as a preferred claim against the estate there are assets remaining, the clerk shall give notice to creditors and heirs as provided by section 560:3-1206 by posting, or if there are sufficient funds, by posting and advertising, and if after the period and distribution of assets to creditors of deceased persons who have filed proper claims there are assets remaining, then the clerk upon the facts contained in the affidavit as to heirship, shall deliver the assets to the personal representative, if any, or if no personal representative has been appointed, then to the heirs in accordance with the statutes of descent of the State. If no creditors, personal representative, or heirs appear or are found within sixty days of the notice, the clerk shall convert all personal property into cash and forthwith deposit the same with the state director of finance for disposition as provided in chapter [523.] 523A.”

SECTION 29. Section 634-36, Hawaii Revised Statutes, is amended to read as follows:

“**§634-36 Manner of service under sections 634-33 to 35.** When service of summons is provided for by section 634-33, 634-34, or 634-35, service shall be made by service upon the defendant personally by any person authorized to serve process in the place in which [he] the person may be found or appointed by the court for the purpose, or sent by certified or registered mail, postage prepaid, with return receipt requested, by the plaintiff or [his] the plaintiff's attorney to the defendant. The plaintiff or [his] the plaintiff's attorney shall file the return of

## ACT 68

the serving officer or an affidavit showing that [the notice and] the copy of summons and complaint were served as aforesaid or sent by certified or registered mail as aforesaid, and in the latter case the return receipt signed by the defendant shall be filed with the affidavit. The service shall be deemed complete upon delivery of the required papers to the defendant outside the State, personally or by mail as provided.

If the defendant cannot be found to serve or mail the summons and the facts shall appear by affidavit or otherwise to the satisfaction of the court, it may order that service be made by publication of summons in at least one newspaper published in the State and having a general circulation in the circuit in which the action has been instituted, in such manner and for such time as the court may order, but not less than once each week in four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court."

SECTION 30. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1985, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 31. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 32. This Act shall take effect on July 1, 1985.

(Approved May 4, 1985.)