

ACT 230

S.B. NO. 959

A Bill for an Act Relating to Consumer Protection.

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

SECTION 1. Section 28-1, Hawaii Revised Statutes, is amended to read as follows:

**“§28-1 Appears for State.** [Except in those cases where the director of the office of consumer protection represents the State, the respective counties, and the general public as consumers, the] The attorney general shall appear for the State personally or by deputy, in all the courts of record, in all cases criminal or civil in which the State may be a party, or be interested, and may in like manner appear in the district courts in such cases.”

SECTION 2. Section 480-24, Hawaii Revised Statutes, is amended to read as follows:

**“§480-24 Limitation of actions.** (a) Any action to enforce a cause of action arising under this chapter shall be barred unless commenced within four years after the cause of action accrues, except as otherwise provided in subsection (b) and

section 480-22. For the purpose of this section, a cause of action for a continuing violation is deemed to accrue at any time during the period of the violation.

(b) The following shall toll the time for commencement of actions by the State under this chapter if at any time:

- (1) Any cause of action arising under this chapter accrues against any person, the person is out of the State, the action may be commenced within the terms respectively limited, after the return of the person into the State, and if, after the cause of action has accrued, the person departs from and resides out of the State, the time of the person's absence shall not be deemed or taken as any part of the time limited for the commencement of the action.
- (2) Any cause of action arising under this chapter accrues against any person, the person has petitioned for relief under the bankruptcy code, the time during which the bankruptcy case is pending shall not be deemed or taken as any part of the time limited for the commencement of the action.
- (3) Any cause of action arising under this chapter accrues against any person, there is a criminal action pending which arises out of the same occurrence, the time during which the criminal action is pending shall not be deemed or taken as any part of the time limited for the commencement of the action. As used in this paragraph, a criminal action is pending until its final adjudication in the trial court."

SECTION 3. Section 487-14, Hawaii Revised Statutes, is amended to read as follows:

**"§487-14 Restitution.** (a) In any civil action brought by the director of the office of consumer protection to collect civil penalties or enjoin unlawful acts or practices, the court hearing the action may include in its orders or judgments such provisions as may be necessary to effect restitution to any person who is injured as a result of the unlawful acts and practices which are the subject of the action and who submits proof of entitlement to restitution in the prosecution of the action. Any person in whose favor restitution is ordered need not accept restitution, but the person's acceptance and full performance of restitution shall bar recovery by the person of any other damages in any action on account of the same acts or practices against the person making restitution.

(b) Whenever a corporation is ordered to pay restitution under subsection (a), the court hearing the action may include in its orders or judgments that the corporation and the individual directors, officers, or agents of the corporation who authorized, ordered, or had done, or participated in any of the unlawful acts and practices which caused, in whole or in part, injuries to any person, are jointly and severally liable for the payment or restitution."

SECTION 4. Section 487-15, Hawaii Revised Statutes, is amended to read as follows:

**"§487-15 Injunction.** The director of commerce and consumer affairs or the office of the<sup>1</sup> consumer protection may bring civil proceedings to enjoin any violation of section 487-13(a)[.] or any other unlawful act or practice affecting consumers, trade, or commerce."

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

**SECTION 6.** This Act shall take effect upon its approval.  
(Approved June 8, 1989.)

**Note**

1. "The" should be underscored.