

ACT 151

H.B. NO. 2803

A Bill for an Act Relating to the Employees' Retirement System.

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

PART I.

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The actuarial valuations made for years ending June 30, [1994,] 1996, to June 30, 2000, shall be based on an eight per cent investment yield rate, [assumed salary increases of four per cent,] a variable salary growth assumption rate, and tables and factors adopted by the board or legislature for actuarial valuations of the system, subject to recommendations made by the actuary appointed under section 88-30. The salary growth assumption used in each annual actuarial valuation shall be determined separately for each of the following groups:

- (1) Teachers;
- (2) Police officers, firefighters, and corrections officers; and
- (3) All other employees.

For paragraphs (1), (2), and (3), the salary growth assumption shall be the arithmetic average of the compensation increases experienced by continuing active members, as measured in the data received for the valuation being performed and the two immediately preceding valuations.’’

PART II.

SECTION 2. Section 76-26, Hawaii Revised Statutes, is amended to read as follows:

“**§76-26 Reemployment of retirees for [service connected occupational] service-connected disability.** Any former employee who has been retired for [service connected occupational] a service-connected disability but who is not totally and permanently incapacitated from performing service shall be reemployed in those classes for which the employee requests reemployment and for which the employee meets minimum qualification requirements. The appointment shall not be subject to competitive examination. The order of certification when more than one person is eligible for certification for a particular class shall be fixed by rule.’’

SECTION 3. Section 87-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) Notwithstanding any other law to the contrary:
- (1) The beneficiary of an employee who is killed in the performance of duty;
 - (2) An employee-beneficiary who retired after June 30, 1984, due to a disability as defined in sections [88-77,] 88-79[,] and 88-285;
 - (3) An employee-beneficiary who retired before July 1, 1984;
 - (4) An employee-beneficiary who:

- (A) Was hired before July 1, 1996;
 - (B) Retired after June 30, 1984; and
 - (C) Who had ten years or more of credited service, excluding sick leave; and
- (5) An employee-beneficiary who was hired after June 30, 1996, and who retired with twenty-five or more years of credited service, excluding sick leave;

or upon death their beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary, as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of the persons identified in this subsection shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries.”

SECTION 4. Section 88-61, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The membership of an elective officer or judge in the system may be terminated upon election of the member to retire [if made within six months after the date when] whenever the allowance for such member reaches [75] seventy-five per cent of the member’s average final compensation [or within six months after May 24, 1971, if the member has already reached such limitation and the]. The member’s right to receive the retirement allowance prescribed in section 88-74 after the member’s future separation from service as provided in section 88-73 shall vest on the date of the election. Upon the date of the election, the member shall be entitled to receive the portion of the accumulated contributions, if any, which would be required to be returned to the member under section 88-74(3)(B) as if the member’s retirement allowance had commenced on that date, and after the date of the election the member shall not be allowed or required to make any future contributions. [No judge shall serve after age 65 who makes an election under this subsection unless said judge is in office and age 65 or over on May 24, 1971.]”

SECTION 5. Section 88-73, Hawaii Revised Statutes, is amended to read as follows:

“**§88-73 Service retirement.** Retirement of a member on a service retirement allowance shall be made by the board of trustees or its designee as follows:

- (1) Any member who has at least five years of credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge, an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature, may retire upon written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, the member desires to be retired. In the event of the death of a member after the date of the filing of the member’s written application to retire, the designated beneficiary, otherwise the personal representative of the member’s estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired, and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member’s retirement[.];

- (2) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although the member continues to fill the elective position[.];
- (3) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which the elective officer or judge elected to retire, as provided by section 88-61(c), after attaining an allowance of seventy-five per cent of average final compensation, shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but shall not receive a retirement allowance until termination of active service; however, upon leaving active service the elective officer or judge shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90, which post retirement allowances shall be computed from the date of the election as though the elective officer or judge had left active service on that day[.]; and
- (4) In the case of a class A or B member who also has prior credited service under part VII, total credited service as a class A, class B, and class C member shall be used to determine the eligibility for retirement allowance.”

SECTION 6. Section 88-79, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“§88-79 Service-connected [occupational] disability retirement. (a) Upon application of a member, or the person appointed by the family court as guardian of an incapacitated member, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the board of trustees for service-connected [occupational] disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer’s report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the board within two years of the date of the accident, or the date upon which workers’ compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member’s disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board certifies that the member is incapacitated for the further performance of duty and that the member’s incapacity is likely to be permanent.”

SECTION 7. Section 88-80, Hawaii Revised Statutes, is amended to read as follows:

“§88-80 Allowance on retirement for service-connected [occupational] disability. Upon retirement for service-connected [occupational] disability, a member shall receive [for a period of three years from the date of retirement, an] the amount of the member’s accumulated contributions and a retirement allowance

[computed in the manner prescribed for service-connected total disability.] which shall consist of fifty per cent of the member's average final compensation. [In addition, within this three-year period, the member shall be reimbursed in full for all expenses for all services, drugs and appliances approved by the medical board as being necessary to the treatment and care of the disability, which expenses are not met by the Hawaii public employees health fund. Within the three-year period, the system shall also pay the cost of any physical and vocational rehabilitation services approved by the medical board. After the completion of three years, the annuity being paid shall be continued and the pension shall be thirty-three and one-third per cent of the member's average final compensation; provided if the medical board shall, within the three-year period of time, find and certify the disability pensioner is totally incapacitated for gainful employment, the board shall award a service-connected total disability benefit in which case benefits shall be paid under section 88-78.

Any other provision of this part notwithstanding, a retirant receiving service-connected occupational disability benefits shall continue to receive such benefits irrespective of the retirant's later employment or if the retirant later becomes a member of the system. If such a retirant again becomes a public employee, the retirant's membership status in the system shall be determined as though the retirant were entering public employment for the first time and all benefits related to such new membership shall be accrued and paid without reference to the service-connected occupational disability benefits being paid.]”

SECTION 8. Section 88-82, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If, in the event of an appeal of a decision of the medical board, retirement benefits are awarded to a member by the board of trustees or court of the appropriate jurisdiction under section 88-75, [88-77,] 88-79, 88-85, 88-284, or 88-285, the member shall be reimbursed reasonable attorney's fees together with any costs payable by the system. If an appeal is had, the attorney's fees or costs shall be subject to the approval of the board of trustees or by the appellate court deciding the appeal.”

SECTION 9. Section 88-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Maximum allowance: Upon retirement, any member may elect to receive the maximum retirement allowance to which the member is entitled computed in accordance with the provisions described under section 88-74, 88-76, [88-78,] or 88-80 and in the event of the member's death, there shall be paid to the member's beneficiary, otherwise to the member's estate, the difference between the balance of the member's accumulated contributions at the time of the member's retirement and the retirement allowance paid or payable to the member prior to death.

In lieu of this maximum allowance, the member may elect to receive the member's retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

Option 1: The member may elect to receive a lesser retirement allowance during the member's lifetime. At the member's retirement, there shall be established an amount of initial insurance which shall be computed on the basis of actuarial factors adopted by the board of trustees. Upon the death of the retirant, any balance remaining in the initial insurance reserve after deducting the retirement allowance paid to the retirant prior to death, shall be paid to the retirant's beneficiary, otherwise

to the retirant's estate. In lieu of the lump sum balance, the beneficiary may elect to receive [payment in one of the following ways: (1)] an allowance for life based on the value of the balance; provided that the allowance is not less than [\$10] \$100 per month[; or (2) cash payment in part and a reduced allowance for life based on the value of the remaining balance; provided that the allowance is not less than \$10 per month].

Option 2: The member may elect to receive a lesser retirement allowance during the member's lifetime and have such allowances, including cumulative post retirement, if applicable, continued after the member's death to the member's beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 3: The member may elect to receive a lesser retirement allowance during the member's lifetime and have one-half of such allowance, including fifty per cent of all cumulative post retirement allowances, if applicable, continued after the member's death to the member's beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 4: The member may elect to receive a lesser retirement allowance during the member's lifetime and provide some other benefit to the member's beneficiary in accordance with the member's own specification; provided that such election shall be certified by the actuary to be the actuarial equivalent of the member's retirement allowance and shall be approved by the board.

Option 5: The member may elect to receive the balance of the member's accumulated contributions at the time of retirement in a lump sum and, during the member's lifetime a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirant, all further payments shall cease. Only a member retiring for service having at least ten years of credited service or for disability may elect this mode of retirement.

To receive benefits, the beneficiary must have been designated by the member in such form and manner as is prescribed by the board.

In the event of the death of the retirant within one year after the date of retirement, the retirant's beneficiary may elect to receive either the death benefits under the mode of retirement selected, or in lieu thereof, such benefits as would have been paid had the retirant died immediately prior to retirement, less any payments which the retirant received.

Any election of a mode of retirement allowance shall be irrevocable."

SECTION 10. Section 88-98, Hawaii Revised Statutes, is amended to read as follows:

“§88-98 Return to service of a retirant. Any retirant who returns to employment [after June 30, 1984,] requiring [the retirant's] active membership shall be reenrolled as an active member of the system in the same class from which the retirant originally retired and the retirant's retirement allowance shall [thereupon] be suspended. [At such time as the retirant again retires, the retirant's retirement allowance shall consist of:]

(1) If the retirant [has less] returns to service before July 1, 1998, and again retires, the retirant's retirement allowance shall consist of:

(A) For members with fewer than three years of credited service during the [retirant's] member's period of reemployment, the allowance to which the [retirant] member was entitled under the mode of retirement [the retirant] selected when the [retirant]

member previously retired and which was suspended; plus, for the [retirant's] period of service during the [retirant's] member's reemployment, the allowance to which the [retirant] member is entitled for [such] that service based on the mode of retirement initially selected and computed for the [retirant's] member's age, average final compensation, and other factors in accordance with the benefit formula in existence at the time of the [retirant's final] member's latest retirement[.]; or

(2) If the retirant has]

(B) For members with three or more years of credited service during the [retirant's] member's period of reemployment, the allowance computed as if the [retirant] member were retiring for the first time; provided that in no event shall [such] the allowance be less than the amount determined in accordance with [[paragraph] (1) hereof.] subparagraph (A);

and

(2) If the retirant returns to service after June 30, 1998, and again retires, the retirant's retirement allowance shall be computed in accordance with paragraph (1)(A), regardless of the number of years of service in the reemployment period.

The board of trustees shall adopt such rules as may be required to administer the purposes of this section."

SECTION 11. Section 88-136, Hawaii Revised Statutes, is amended to read as follows:

“§88-136 Accidental disability benefit. Any member who has been incapacitated for duty by accident, act of war, or otherwise, occurring while the member is not in the service of the State or any county, shall not by reason of such incapacity be entitled to the accidental disability benefit provided for by [sections 88-77 and] section 88-79, but in such event if the member can qualify for an ordinary disability retirement benefit as hereinabove provided, the member shall receive the ordinary disability retirement benefit.”

SECTION 12. Section 88-251, Hawaii Revised Statutes, is amended to read as follows:

“§88-251 Applicability. The following provisions of part II of this chapter shall apply to this part:

- (1) Subpart A, except the definitions provided in section 88-21, unless expressly adopted in section 88-261;
- (2) Subpart B, except sections 88-45, 88-46, 88-48, and 88-52 to 88-62;
- (3) Subpart C, except sections 88-71 to [88-78,] 88-76, 88-80, 88-81, 88-83 to 88-85, 88-87 to 88-89, 88-96, 88-97, and 88-98;
- (4) Subpart D, except sections 88-112 and 88-113; and
- (5) Subpart E, except sections 88-134 to 88-139.”

SECTION 13. Section 88-77, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 88-78, Hawaii Revised Statutes, is repealed.

PART III.

SECTION 15. Section 88-89, Hawaii Revised Statutes, is amended to read as follows:

“**§88-89 Minimum amount.** Each retirant who has a minimum of ten years of credited service and whose service retirement allowance is less than \$50 per month, shall be paid [from the minimum pension fund] an amount which, together with the retirant’s retirement allowance, equals the sum of \$50 per month.”

SECTION 16. Section 88-109, Hawaii Revised Statutes, is amended to read as follows:

“**§88-109 Funds of the system.** The assets of the system are assigned to the following funds hereby created:

- (1) The annuity savings fund;
- (2) The pension accumulation fund; and
- (3) The pension bonus fund;
- (4)] (3) The expense fund[; and
- (5) The minimum pension fund].”

SECTION 17. Section 88-126, Hawaii Revised Statutes, is amended to read as follows:

“**§88-126 Certification and payment of county contributions to system.** [Except as otherwise provided in section 88-118, the] The board of trustees shall certify annually to the councils of each county and to the director of finance of the State the amount due from each county on account of its employees who are members of the system. The council of each county shall include in its annual budget the amount certified to it by the board. The amount shall be paid by the county before October 1 and April 1 of each fiscal year. If the amount or any portion thereof is not paid by the county before October 1 and April 1 of each fiscal year, the director of finance shall retain out of the real property tax money collected for the year a sum equal to the amount or portion thereof not so paid. All the moneys retained and collected by the director of finance shall be deposited in the appropriate fund or funds of the system. The amount of any deficiency in meeting the obligations shall be added to the amount due from the county for the succeeding year.”

SECTION 18. Section 88-115.5, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 88-117, Hawaii Revised Statutes, is repealed.

SECTION 20. Section 88-118, Hawaii Revised Statutes, is repealed.

PART IV.

SECTION 21. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

“**§88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431:6-101) of any of the following classes:
 - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multirental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action;

- (B) Obligations secured by mortgages insured by the Federal Housing Administration;
- (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act;
- (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple; provided that the amount of the obligation shall not at the time investment is made therein exceed eighty per cent of the value of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431:6-308;
- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate; provided that:
 - (i) [each] Each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures[,] and
 - (ii) [the] The amount of the obligation shall not at the time investment is made therein exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed eighty per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees;
- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920; and

- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate; provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted; provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each, and that all such leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each;

- (2) Government obligations, etc. Obligations of any of the following classes:
 - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof[, or by the Dominion of Canada or by any province thereof,] or by any municipal or political subdivision or school district of any of the foregoing; provided that principal of and interest on such obligations are payable in currency of the United States; or sovereign debt instruments issued by agencies of, or guaranteed by foreign governments;
 - (B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State; and
 - (C) Obligations issued or guaranteed by any federal home loan bank including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration;
- (3) Corporate obligations. [Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
 - (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred fifty per cent of its fixed charges for such year;
 - (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof; provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option

of renewal, and (ii) net earnings of the corporation shall meet the requirements described in subparagraph (A); and

- (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof; provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).

As used in this paragraph, the terms “fixed charges” and “net earnings available for fixed charges” shall have the meanings and application ascribed thereto in sections 431:6-101 and 431:6-102; Investments may be made in below investment grade or nonrated debt instruments, foreign or domestic, in accordance with investment guidelines adopted by the board of trustees;

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof or of any country [in the Pacific Basin or Europe];
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks;
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank;
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations;
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein;
- (9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board of trustees, it is prudent to invest funds of the system. For purposes of this paragraph, “real property” includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks and trust companies, group or unit trusts, limited partnerships, investment trusts, title-holding corporations recognized under section 501(c)(2) or section 501(c)(23) of the Internal Revenue Code of 1986, as amended, and other pooled funds invested on behalf of the system by investment managers retained by the system; [and]
- (10) Other securities and futures contracts. Securities and futures contracts in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, including currency, interest rate, bond, and stock index futures contracts and options on such contracts to hedge against anticipated changes in currencies, interest rates, and bond and

stock prices that might otherwise have an adverse effect upon the value of the system's securities portfolios; covered put and call options on securities; and stock; whether or not the securities, stock, futures contracts, or options on futures are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4))[.]; and

- (11) Private placements. Investments in institutional blind pool limited partnerships or direct investments which make private debt and equity investments in privately held companies.”

SECTION 22. Section 88-119.5, Hawaii Revised Statutes, is amended to read as follows:

“**§88-119.5 Investment guidelines.** Notwithstanding any other law to the contrary, real estate loans and mortgages made pursuant to section 88-119(1)(D) and (E) shall be in accordance with conditions and restrictions set forth by the board of trustees; [provided that the board shall review its policy on the conditions and restrictions from time to time and formulate, amend, or repeal the conditions and restrictions giving full consideration to the prevailing economic conditions in the real estate industry; provided further that for good cause shown, the board of trustees shall duly consider a member's application for waiver of any condition or restriction imposed by the board of trustees; and] provided [further] that the board may establish the minimum and maximum loan amounts and interest rates for these real estate loans and mortgages by motion, at any duly noticed meeting of the board. [The board of trustees shall liberally construe this section; provided that no exception shall be made which may substantially impair the fiscal integrity of the system's funds.] The board of trustees, subject to chapter 91, shall adopt, amend, and repeal rules having the force of and effect of law to implement all provisions of this section other than those relating to loan amounts and interest rates for its real estate loans and mortgages.”

PART V.

SECTION 23. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 24. Statutory material to be repealed is bracketed.¹ New statutory material is underscored.

SECTION 25. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.