

**ACT 283**

S.B. NO. 2121

A Bill for an Act Relating to Obsolete Laws.

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

**PART I**

SECTION 1. The purpose of this part is to reduce the number of administrative rules through the outright repeal of one or more specific sections, chapters, or subchapters of the Hawaii Administrative Rules. This part further specifies that to expedite the streamlining of Hawaii state government and increase government efficiency, agencies whose rules have been repealed by this part need not comply with the requirements for the repeal of rules under the Administrative Procedure Act with respect to these rules.

SECTION 2. Notwithstanding any law to the contrary, the following Hawaii Administrative Rules are hereby repealed, having been found to be unnecessary.

- (1) OFFICE OF THE GOVERNOR:
  - (A) Title 1, chapter 3, Long-Term Care Service Development Fund; and
  - (B) Title 1, chapter 4, Renovation and Conversion of Existing Facilities for Long-Term Care Programs.
- (2) OFFICE OF THE LIEUTENANT GOVERNOR - Office of Elections: Title 2, chapter 38, Adoption, Amendment, or Repeal of Rules by Chief Election Officer.
- (3) DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:
  - (A) Title 3, chapter 11, Rules and Regulations for the Administration and Accountability of Petty Cash Funds; and
  - (B) Title 3, chapter 12, Rules Governing the Reporting of Funds Not Deposited in the State Treasury.
- (4) DEPARTMENT OF AGRICULTURE:
  - (A) Title 4, chapter 3, Rules and Regulations Governing the Kauai Planning and Development Program;
  - (B) Title 4, chapter 25, Meat Inspection; and
  - (C) Title 4, chapter 26, Poultry Inspection.
- (5) DEPARTMENT OF BUDGET AND FINANCE:
  - (A) Title 6, chapter 11, Veterans Loan Program;
  - (B) Title 6, chapter 100, General Provisions - Hawaii Information Network Corporation;
  - (C) Title 6, chapter 101, Marketing and Promotion Activities;
  - (D) Title 6, chapter 102, HAWAII INC Service Bureau; and
  - (E) Title 6, chapter 103, Hawaii FYI Electronic Services Gateway.
- (6) DEPARTMENT OF HAWAIIAN HOME LANDS: Title 10, chapter 100, Leases to Hawaiians.
- (7) DEPARTMENT OF HEALTH:
  - (A) Title 11, chapter 3, Physical Therapists;
  - (B) Title 11, chapter 6, State Health Insurance Program;
  - (C) Title 11, chapter 14, Housing;
  - (D) Title 11, chapter 16, Recreational Trailer Camps;
  - (E) Title 11, chapter 30, Frozen Desserts;
  - (F) Title 11, chapter 34, Poisons;
  - (G) Title 11, chapter 42, Vehicular Noise Control for Oahu; and
  - (H) Title 11, chapter 158, Venereal Disease.
- (8) DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS:
  - (A) Title 12, chapter 1, except section 12-1-5, Petition for declaratory ruling; and
  - (B) Title 12, chapter 507, Aloha State Specialized Employment and Training Program.
- (9) DEPARTMENT OF LAND AND NATURAL RESOURCES:
  - (A) Title 13, chapter 2, Conservation Districts;
  - (B) Title 13, chapter 4, Waimanu Estuarine Sanctuary;
  - (C) Title 13, chapter 6, Conservation Districts;
  - (D) The following sections of Title 13, chapter 233, Motor Vehicle and Parking Rules:
    - (i) Section 13-233-11, Vehicles or equipment, size, weight, and load restrictions;
    - (ii) Section 13-233-12, Restrictions as to tire equipment;
    - (iii) Section 13-233-21, Designation of parking meter stalls;
    - (iv) Section 13-233-22, Placement and design of parking meters;

- (v) Section 13-233-23, Method of parking;
  - (vi) Section 13-233-25, Operation of parking meters; and
  - (vii) Section 13-233-41, Designation of parking stalls.
- (10) DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS:
- (A) Title 16, chapter 2, Hawaii Temporary Disability Insurance Risk Spreading Plan;
  - (B) Title 16, chapter 4, Hawaii Insurance Guaranty Association Plan of Operation;
  - (C) Title 16, chapter 9, Licensing Examination Fees;
  - (D) Title 16, chapter 10, Unfair Discrimination Solely on the Basis of Blindness or Partial Blindness;
  - (E) Title 16, chapter 11, Multiple Peril Policy Rate Sheet;
  - (F) Title 16, chapter 12A, Medicare Supplement Policies;
  - (G) Title 16, chapter 12B, Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of Medicare Catastrophic Coverage Act; and
  - (H) Title 16, chapter 173, Hawaii Property Insurance Association.
- (11) DEPARTMENT OF TRANSPORTATION:
- (A) Title 19, chapter 5, Service Charge for Dishonored Negotiable Instruments at the Department of Transportation; and
  - (B) Title 19, chapter 28, Aircraft Noise Control.

SECTION 3. Notwithstanding section 91-3, Hawaii Revised Statutes, or any law to the contrary, no agency affected by any section, chapter, or subchapter of the Hawaii Administrative Rules that has been repealed by this part shall be required to give advanced public notice, provide a public hearing, distribute copies of repealed rules, or take any other action required by chapter 91, Hawaii Revised Statutes, with respect to those administrative rules that have been repealed by this part.

SECTION 4. All contracts entered into pursuant to administrative rules that have been repealed by this part shall continue to be honored until their termination. The provisions of this part shall not be applied so as to impair any contract existing as of the effective date of this Act or to otherwise violate either the Hawaii State Constitution or article I, section 10, of the United States Constitution.

## PART II

SECTION 5. The purpose of this part is to reduce the number of administrative rules by specifying that where an agency seeks only to repeal as null and void or unnecessary certain specific sections, chapters, or subchapters of the Hawaii administrative rules, the agency need only publish a public notice of those sections, chapters, or subchapters that are being repealed, without any accompanying description of those provisions, and without the need for a public hearing. Agencies that propose to adopt, amend, or compile administrative rules, whether separately or in combination with the repeal of rules, must continue to comply with the existing requirements of the Administrative Procedure Act. The legislature finds that this part will further help to streamline government and increase government efficiency.

SECTION 6. Section 91-3, Hawaii Revised Statutes, is amended to read as follows:

**“§91-3 Procedure for adoption, amendment, or repeal of rules.** (a) [Prior] Except as provided in subsection (f), prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

- (1) Give at least thirty days’ notice for a public hearing. The notice shall include:
  - (A) A statement of the topic of the proposed rule adoption, amendment, or repeal or a general description of the subjects involved; and
  - (B) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
  - (C) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and
  - (D) The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rulemaking proceedings, given at least once statewide for state agencies and in the county for county agencies. Proposed state agency rules shall also be posted on the [Internet] internet as provided in section 91-2.6; and

- (2) Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce then the date when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency, if requested to do so by an interested person, shall issue a concise statement of the principal reasons for and against its determination.

(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 thirty 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, including posting the abbreviated notice and hearing on the [Internet] internet as provided in section 91-2.6, 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.

(c) 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 mayor of the county. This subsection shall not apply to the adoption, amendment, and repeal of the rules of the county boards of water supply.

(d) The requirements of subsection (a) may be waived by the governor in the case of the State, or by the mayor in the case of a county, whenever a state or county agency is required by federal provisions to adopt rules as a condition to receiving federal funds and the agency is allowed no discretion in interpreting the federal provisions as to the rules required to be adopted; provided that the agency shall make the adoption, amendment, or repeal known to the public by:

- (1) Giving public notice of the substance of the proposed rule at least once statewide prior to the waiver of the governor or the mayor; and

(2) Posting the full text of the proposed rulemaking action on the [Internet] internet as provided in section 91-2.6.

(e) No adoption, amendment, or repeal of any rule shall be invalidated solely because of:

- (1) The inadvertent failure to mail an advance notice of rulemaking proceedings;
- (2) The inadvertent failure to mail or the nonreceipt of requested copies of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed; or
- (3) The inadvertent failure on the part of a state agency to post on the website of the office of the lieutenant governor all proposed rulemaking actions of the agency and the full text of the agency’s proposed rules as provided in section 91-2.6.

Any challenge to the validity of the adoption, amendment, or repeal of an administrative rule on the ground of noncompliance with statutory procedural requirements shall be forever barred unless the challenge is made in a proceeding or action, including an action pursuant to section 91-7, that is begun within three years after the effective date of the adoption, amendment, or repeal of the rule.

(f) Whenever an agency seeks only to repeal one or more sections, chapters, or subchapters of the agency’s rules because the rules are either null and void or unnecessary, and not adopt, amend, or compile any other rules:

- (1) The agency shall give thirty days’ public notice at least once statewide of the proposed date of repeal and of:
  - (A) A list of the sections, chapters, or subchapters, as applicable, being repealed; and
  - (B) A statement of when, where, and during what times the sections, chapters, or subchapters proposed to be repealed may be reviewed in person;
- (2) The agency shall post the full text of the proposed sections, chapters, or subchapters to be repealed on the internet as provided in section 91-2.6; and
- (3) Any interested person may petition the agency regarding the sections, chapters, or subchapters proposed to be repealed, pursuant to section 91-6.

This subsection does not apply to the repeal of one or more subsections, paragraphs, subparagraphs, clauses, words, phrases, or other material within a section that does not constitute the entire section to be repealed.”

PART III

SECTION 7. The purpose of this part is to reduce the number of administrative rules through the outright repeal of one or more specific sections, chapters, or subchapters of the Hawaii Administrative Rules. This part further specifies that in order to expedite the streamlining of Hawaii state government and increasing government efficiency, agencies whose rules have been repealed by this part need not comply with the requirements for the repeal of rules under the Administrative Procedure Act with respect to these rules.

SECTION 8. Notwithstanding any law to the contrary, the following administrative rules of the Hawaii Administrative Rules that are null and void are hereby repealed by virtue of the fact that they are already null and void:

- (1) OFFICE OF THE LIEUTENANT GOVERNOR Administration:  
Title 2, chapter 29, Hawaii Criminal Justice Commission Administrative Practice and Procedure.

- (2) DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:  
Title 3, chapter 56, Rules Providing Value Engineering Incentives in Public Works Contracts.
- (3) DEPARTMENT OF AGRICULTURE:
  - (A) Title 4, chapter 6, Orchards Development Program;
  - (B) Title 4, chapter 7, Hawaii Agricultural Products Program;
  - (C) Title 4, chapter 10, The Independent Sugar Grower Loan Program; and
  - (D) Title 4, chapter 47, Agricultural Marketing Orders and Agreements.
- (4) DEPARTMENT OF BUDGET AND FINANCE:  
Title 6, chapter 15, Grants, Subsidies, and Purchases of Service.
- (5) DEPARTMENT OF HEALTH:  
Title 11, chapter 141, Midwives.
- (6) DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS:
  - (A) Title 12, chapter 9, Work Incentive Program for AFDC Recipients;
  - (B) Title 12, chapter 23, Relating to Discriminatory Practices;
  - (C) Title 12, chapter 34, State Program for the Unemployed; and
  - (D) Title 12, chapter 35, Displaced Homemaker Program.
- (7) DEPARTMENT OF LAND AND NATURAL RESOURCES:  
Title 13, chapter 59, Kawaaloo-Moomomi Bays Subsistence Fishing Pilot Demonstration Project, Molokai.
- (8) DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM:
  - (A) Title 15, chapter 3, Fishing Vessel Loan Programs;
  - (B) Title 15, chapter 7, Molokai Loan Program;
  - (C) Title 15, chapter 13, The Hawaii State Plan Policy Council; and
  - (D) Title 15, chapter 14, Commission on Population and the Hawaiian Future Rules of Practice and Procedure.
- (9) DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS:
  - (A) Title 16, chapter 8, Patient's Compensation Fund;
  - (B) Title 16, chapter 29, Branch Bank of University of Hawaii Manoa Campus;
  - (C) Title 16, chapter 109, Factory-Built Housing;
  - (D) Title 16, chapter 111, Real Estate Collection Servicing Agents; and
  - (E) Title 16, chapter 316, Hawaiian Home Lands Trust Individual Claims Review Panel Administrative Practice and Procedure.
- (10) DEPARTMENT OF TAXATION:  
Title 18, chapter 234, Natural Disaster Claims Commissions.

#### PART IV

SECTION 9. 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 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 11. This Act shall take effect upon its approval.

(Approved June 28, 2000.)