

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

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

SECTION 1. Section 87-27, Hawaii Revised Statutes, is amended to read as follows:

“**§87-27 Supplemental plan to federal Medicare.** Any other provision of this chapter notwithstanding, the board of trustees shall establish, effective July 1, [[1966]], a health [benefit] benefits plan which takes into account benefits available to an employee-beneficiary and spouse under the federal Medicare plan, subject to the following conditions:

- (1) There shall be no duplication of benefits payable under federal Medicare but the plan so established by the board shall be supplemental to the federal Medicare plan;
- (2) The contribution for voluntary medical insurance coverage under federal Medicare may be paid by the fund, in such manner as the board shall specify, in the case of an employee-beneficiary who is a retired employee, and spouse while the employee-beneficiary is living, including members of the old pension system and after death the employee-beneficiary’s spouse provided the spouse qualifies as an employee-beneficiary; provided that the counties, through their respective departments of finance, shall reimburse the fund for any contributions made for county employee-beneficiaries under this paragraph;
- (3) The benefits available under the plan, when taken together with the benefits available under the federal Medicare plan [shall], as nearly as is possible, shall approximate the benefits available under the plans set forth in section 87-22. If, for any reason, a situation develops where the benefits available under the supplemental plan and the federal Medicare plan substantially differ from those that would otherwise be available, the board [is authorized to] may correct this inequity to assure substantial equality of benefits;
- (4) Notwithstanding any other law to the contrary, all employee-beneficiaries or dependent-beneficiaries who are eligible to enroll in the federal Medicare Part B medical insurance plan shall enroll in that federal plan as a requirement to receive the contributions and to participate in the employee benefit plans described in this chapter. This paragraph shall pertain to retired employees and their spouses and the surviving spouses of deceased retirees and employees killed in the performance of duty; and
- (5) The board of trustees shall determine which employee-beneficiaries and dependent-beneficiaries, who are not enrolled in the federal Medicare Part B medical insurance plan, may participate in such other plans as are set forth in section 87-22.”

SECTION 2. Section 312-3.7, Hawaii Revised Statutes, is amended to read as follows:

‘[[§312-3.7]] **Hawaii state library foundation trust fund.** (a) There is established as a separate fund of the Hawaii state library foundation, a Hawaii nonprofit corporation, the Hawaii state library foundation trust fund. All funds contributed to the trust fund, including income and capital gains earned therefrom, shall be used exclusively for state library programs as defined in the articles, bylaws, resolutions, and other instruments executed on behalf of the Hawaii state library foundation or by the state librarian. The trust fund may receive any and all types of private contributions, and the income and capital gains earned by the fund; provided that funds or properties donated for library use and patrons’ deposits shall be deposited and accounted for in accordance with rules adopted by the comptroller. The trust fund shall be subject to the following restrictions:

- (1) All funds, and the income and capital gains earned by investment of those funds, shall be expended only for the support of state library programs; and
- (2) Other restrictions imposed by the legislature with respect to the transfer or appropriation of funds.

(b) Any funds deposited in the trust fund, and any income and capital gains earned therefrom, not used for state library programs, shall be invested in accordance with the provisions of the articles, bylaws, resolutions, or other instruments executed on behalf of the Hawaii state library foundation, and in a manner intended to maximize the rate of return on investment of the fund.

(c) If the trust fund is terminated or the Hawaii state library foundation is dissolved, all funds, including the income and capital gains earned by the investment of funds, shall be distributed in accordance with the articles and bylaws of the Hawaii state library foundation.

(d) The Hawaii state library foundation shall require an annual audit of the trust fund, the results of which shall be submitted to the department of education not more than thirty days after receipt by the foundation. The foundation shall retain for a period of three years, any documents, papers, books, records, and other evidence that is pertinent to the trust fund, and permit inspection or access thereto by the department of education, the state librarian, the department of accounting and general services, state legislators, and the state auditor, or their duly authorized representatives.

(e) The purpose of this section is to create by statute a private charitable trust fund to financially support state library programs. The trust fund shall be subject to the terms and conditions provided in this section. The trust fund shall not be placed in the state treasury and the State shall not administer the fund nor be liable for its operation or solvency. The fund shall be a private charitable trust fund administered by a private trust company as trustee.

[(f) Subsections (a) to (e) shall take effect upon the creation of a Hawaii state library foundation, a tax-exempt, nonprofit foundation that is subject to the terms and conditions provided in this section; provided that this section shall be repealed on June 30, 1995, if the Hawaii state library foundation is not established by this date.]”

SECTION 3. Section 348-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The council shall coordinate with other councils within the State including the statewide independent living council, the state planning council on developmental disabilities, the [[]state council on mental health[]], the advisory panel of individuals with disabilities in education, and the state workforce development council. The council shall establish working relationships between the vocational rehabilitation division of the department and other councils and coordinate other functions as deemed appropriate under federal law.”

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SECTION 4. Section 348-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The council shall:

- (1) Develop and submit jointly with the department a state plan;
- (2) Monitor, review, and evaluate the implementation of the state plan;
- (3) Coordinate activities with the [[state rehabilitation council]]; and
- (4) Submit to the commissioner of the rehabilitation services administration such periodic reports as are requested.”

SECTION 5. Section 425D-102, Hawaii Revised Statutes, is amended to read as follows:

“**§425D-102 Name.** (a) The name of each limited partnership as set forth in its certificate of limited partnership:

- (1) May not contain the name of a limited partner unless:
 - (A) It is also the name of a general partner or the corporate name of a corporate general partner; or
 - (B) The business of the limited partnership had been carried on under that name before the admission of that limited partner;
- (2) Shall not be the same as, or substantially identical to, the name of any domestic corporation, domestic partnership, domestic limited liability company, or domestic limited liability partnership existing or registered under the laws of this State, any foreign corporation, foreign partnership, foreign limited liability company, or foreign limited liability partnership authorized to transact business in this State, or any trade name, trademark, or service mark registered in this State, or a name the exclusive right to which is, at the time, reserved, or the name of a partnership which has in effect a registration of its partnership name as provided in this chapter, except that this provision shall not apply if the applicant filed with the director either of the following:
 - (A) The written consent of the other partnership or holder of a reserved or registered name to use the same or substantially identical name, and one or more words are added to make the name distinguishable from the other name; or
 - (B) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this State.

(b) The director may adopt, amend, and repeal such rules as may be necessary to carry out the purpose of this section.”

SECTION 6. Section 431:2-203, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) (1) A person who intentionally or knowingly violates, intentionally or knowingly permits any person[,] over whom the person has authority[,] to violate, or intentionally or knowingly aids any person in violating any insurance rule or statute of this State or any effective order issued by the commissioner, shall be subject to any penalty or fine as stated in this code or the penal code of the Hawaii Revised Statutes.
- (2) If the commissioner has cause to believe that any [()]person has violated any penal provision of this code or [()] of other [law] laws relating to insurance, the commissioner shall certify the facts of the violation to the public prosecutor of the jurisdiction in which the offense was committed.

- (3) Violation of any provision of this code is punishable by a fine of not less than \$100 nor more than \$10,000 per violation, or by imprisonment for not more than one year, or both, in addition to any other penalty or forfeiture provided herein or otherwise by law.
- (4) The terms “intentionally” and “knowingly” have the meanings given in section 702-206(1) and (2).”

SECTION 7. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

“§853-4 Chapter not applicable; when. This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is a felony that involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person, or is a misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
 - (A) Escape in the first degree;
 - (B) Escape in the second degree;
 - (C) Promoting prison contraband in the first degree;
 - (D) Promoting prison contraband in the second degree;
 - (E) Bail jumping in the first degree;
 - (F) Bail jumping in the second degree;
 - (G) Bribery;
 - (H) Bribery of a witness;
 - (I) Intimidating a witness;
 - (J) Bribery of or by a juror;

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- (K) Intimidating a juror;
- (L) Jury tampering;
- (M) Promoting prostitution in the first degree;
- (N) Promoting prostitution in the second degree;
- (O) Promoting prostitution in the third degree;
- (P) Abuse of family [and] or household members;
- (Q) Sexual assault in the second degree;
- (R) Sexual assault in the third degree;
- (S) A violation of an order issued pursuant to chapter 586.

The court may adopt by rule other criteria in this area.”

SECTION 8. Act 93, Session Laws of Hawaii 1999, is amended by amending section 18 to read as follows:

“SECTION 18. This Act shall take effect on July 1, 2000; provided that sections 7, and 9 to 18 shall take effect on [July 1,] June 29, 1999.”

SECTION 9. Act 115, Session Laws of Hawaii 1999, is amended by amending the prefatory language in section 5 to read as follows:

“SECTION 5. Chapter 662E, Hawaii Revised Statutes, is amended by amending the chapter title and section 662E-1 to read as follows:”

SECTION 10. Act 122, Session Laws of Hawaii 1999, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. [Section 183D-4,] Section 183D-2, Hawaii Revised Statutes, is amended to read as follows:”

SECTION 11. Act 163, Session Laws of Hawaii 1999, is amended by amending section 26 to read as follows:

“SECTION 26. This Act shall take effect on approval, provided that:

- (1) Sections 431:9-B and 431:9-C contained in section 2 of Part I shall become effective on January 1, 2001; and provided further that the twenty-three month period to meet the continuing education requirements shall commence upon the first license renewal of a general agent, subagent, solicitor, designated representative, or nonresident agent after December 31, 2000; and
- (2) Part II shall take effect on July 1, 1999; provided further that sections [21 and 22] 20 and 21 shall take effect after all funds that are supposed to be credited to the motor vehicle insurance administration revolving fund and the insurance examiners revolving fund are transferred into the insurance regulation special fund.”

SECTION 12. Act 172, Session Laws of Hawaii 1999, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. [Section] Chapter 378, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:”

SECTION 13. Act 174, Session Laws of Hawaii 1999, is amended by amending section 2 to read as follows:

“SECTION 2. The insurance commissioner [shall], prior to [January 1, 2000,] January 1, 2001, shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, setting forth the respective application, license, and other fees which shall be paid by captive insurance company applicants and licensees.”

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval; provided that:

1. Section 8 shall take effect retroactive to June 24, 1999;
2. Sections 9 and 10 shall take effect retroactive to June 25, 1999;
3. Section 11 shall take effect retroactive to June 28, 1999;
4. Section 12 shall take effect retroactive to July 1, 1999; and
5. Section 13 shall take effect retroactive to July 1, 1999.

(Approved April 4, 2000.)