

## ACT 55

H.B. NO. 1159

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 11-2.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) No panel member shall be eligible for appointment as chief election officer so long as the person is a member of the elections appointment and review panel and for a period of one year thereafter.”

SECTION 2. Section 11-212, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) (1) The candidate committee of each candidate whose name will appear on the ballot in the immediately succeeding election shall file a preliminary report with the commission or appropriate county clerk’s office. Preliminary reports shall be filed on forms provided by the commission no later than 4:30 p.m. on the following dates:
- [(1)] (A) July thirtieth of the year of the primary election;
  - [(2)] (B) Ten calendar days prior to each primary and initial special election; and
  - [(3)] (C) Ten calendar days prior to a special or general election.
- (2) Each report shall be certified pursuant to section 11-195 and shall contain the following information which shall be current through the thirtieth calendar day prior to the filing of the report filed on the thirtieth of July and fifth calendar day prior to the filing of other preliminary reports:
- [(1)] (A) The aggregate sum of all contributions and other campaign receipts received;
  - [(2)] (B) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more

than \$100 during an election period, which has not previously been reported;

- [~~(3)~~] (C) The amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of \$1,000 or more during an election period, which has not previously been reported;
- [~~(4)~~] (D) All expenditures made, incurred, or authorized by or for a candidate, including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- [~~(5)~~] (E) A current statement of the balance on hand or deficit.”

SECTION 3. Section 13D-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]~~~~§13D-1~~ **Board of trustees; number; composition.** The board of trustees shall be composed of nine members elected at-large by qualified voters in the State ~~[who are Hawaiian]~~. Of the nine members to be elected one shall reside on the island of Hawaii; one shall reside on the island of Maui; and one shall reside on the island of Molokai; one shall reside on the island of Kauai; and one shall reside on the island of Oahu.”

SECTION 4. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a Hawaii labor relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairperson, shall be representative of the public. All members shall be appointed by the governor for terms of six years each. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until the member’s successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. Effective January 1, 1989, and January 1, 1990, the salary of the chairperson of the board shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively, and the salary of each of the other members shall be ninety-five per cent of the chairperson’s salary. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during the member’s term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during the acting member’s term of service, shall have the same powers and duties as the regular member.

The chairperson of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. Section ~~[103D-209(b)]~~ 28-8.3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76, 77, and 89. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies.’’

SECTION 5. Act 253, Session Laws of Hawaii 2000, section 95, is amended by amending subsection (f) of section 89-5, Hawaii Revised Statutes, to read as follows:

“(f) The chairperson of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. Section ~~[103D-209(b)]~~ 28-8.3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.’’

SECTION 6. Section 132-3, Hawaii Revised Statutes, is amended to read as follows:

“**§132-3 Adoption of state ~~[model]~~ fire code.** The state fire council shall, after public hearings pursuant to chapter 91, adopt prior to July 1, 1979, a state ~~[model]~~ fire code setting forth minimum requirements relative to the protection of persons and property from fire loss including without limitation: (1) the storage, handling and use of hazardous substances, materials and devices; and (2) the control of conditions hazardous to life or property in the design, use or occupancy of buildings and premises. The state ~~[model]~~ fire code, insofar as is practicable, shall complement, augment and be consistent in form and language with the building and other codes of the respective counties. Upon adoption by the state fire council, the state ~~[model]~~ fire code shall be transmitted to the respective county councils which may, by ordinance, either enact its provisions or enact more stringent provisions relating to protection of persons and property against fire loss; provided that the county councils may enact less stringent provisions with the prior written approval of the state fire council. The state fire council shall meet annually to review and amend the state ~~[model]~~ fire code.’’

SECTION 7. Section 206M-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The development corporation in determining the cost of any project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents [H]for[H] special purpose revenue bonds issued to pay the cost of the project;
- (2) Interest on the bonds and the expenses of the State in connection with the bonds and the project to be financed from the proceeds of the bonds accruing or incurred prior to and during the estimated period of construction and for not exceeding twelve months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and
- (9) Other costs, commissions, and expenses incidental to the acquisition, construction, improvement, installation, equipping, or development of the project, the financing, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of the bonds.”

SECTION 8. Chapter 219, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “qualified aquaculturalist” in section 219-2, Hawaii Revised Statutes, to read:

““Qualified [~~aquaculturalist~~] aquaculturist” means a person, or association of persons, actively engaged in aquaculture farming, aquacultural produce processing, or aquacultural product development activities.”

2. By amending section 219-7, Hawaii Revised Statutes, to read:

**“§219-7 Loans insured by the department.**

- (1) The department of agriculture may insure up to ninety per cent of the principal balance of a loan, plus interest due thereon, made to a qualified [~~aquaculturalist~~] aquaculturist by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates;
- (2) Loans insured under this section shall be limited by the provisions of section 219-6;
- (3) Interest charged on an insured loan made under the provisions of this section shall be determined by the board;
- (4) When the application for an insured loan has been approved by the department, the department shall issue to the lender a guaranty for that percentage of the loan on which it insures payment of principal and interest. The lender shall collect all payments from the borrower and otherwise service the loan;
- (5) In return for the department’s guaranty, the lender shall remit a one-time insurance fee of two per cent on the principal amount of the insured portion of the loan, at the time the loan is booked, except that:

- (A) On loans of \$75,000 or less with a maturity exceeding twelve months, a reduced fee of one per cent; and
- (B) On all guaranteed loans with a maturity of twelve months or less, a reduced fee of one per cent;

shall be paid.

This fee may be paid by the borrower as a cost for the loan;

- (6) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the department shall issue, on request of the lender, a check for the percentage of the overdue payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The department shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower;
- (7) Under conditions specified in rules of the department, the lender may request that a portion or all of the guaranteed percentage of the principal balance of the loan be converted to a participating share held by the department subject to this section [219-7];
- (8) Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the department. Within thirty days of the notification, the department may request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim; and
- (9) The lender may reduce the percentage of the principal balance insured under this section at any time.’’

3. By amending section 219-8, Hawaii Revised Statutes, to read:

**“§219-8 Participation in loans by the department.**

- (1) The department of agriculture may provide funds for a share, not to exceed ninety per cent, of the principal amount of a loan made to a qualified [~~aquaculturalist~~] aquaculturist by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates where the qualified farmer is unable to obtain sufficient funds for the same purpose from the United States Department of Agriculture;
- (2) Participation loans under this section shall be limited by the provisions of section 219-6 and the department of agriculture’s share shall not exceed the maximum amounts specified therefor;
- (3) Interest charged on the private lender’s share of the loan shall not be more than the sum of two per cent above the lowest rate of interest charged by all state or national banks authorized to accept or hold deposits in the State on secured short term loans made to borrowers who have the highest credit rating with those banks;
- (4) The private lender’s share of the loan may be insured by the department up to ninety per cent of the principal balance of the loan, under section 219-7;
- (5) When a participation loan has been approved by the department, its share shall be paid to the participating private lender for disbursement to the borrower. The private lender shall collect all payments from the borrower and otherwise service the loan;
- (6) Out of interest collected, the private lender may be paid a service fee to be determined by the department which fee shall not exceed one per cent of the unpaid principal balance of the loan; provided that this fee

shall not be added to any amount which the borrower is obligated to pay;

- (7) The participating private lender may take over a larger percentage or the full principal balance of the loan at any time that it has determined, to the satisfaction of the department, that the borrower is able to pay any increased interest charges resulting; and
- (8) Security for participation loans shall be limited by section [F]219-5(a)(6)[F]. All collateral documents shall be held by the private lender. Division of interest in collateral received shall be in proportion to participation by the department and the private lender.’’

SECTION 9. Section 220-1, Hawaii Revised Statutes, is amended to read as follows:

“§220-1 Aquaculture farms; rules. (a) The board of land and natural resources shall adopt rules for review of applications, and issuance of permits for aquaculture farms, pursuant to chapter 183C. The rules shall specify permitted uses; provided that all uses endorsed by the board of agriculture pursuant to chapter 219 shall be permitted uses; uses for which an environmental impact statement shall be necessary, pursuant to chapter 343, as well as those actions of repair and maintenance which shall not be subject to the permit and environmental impact statement provisions, including but not limited to emergency repairs.

(b) For the purposes of this section, “aquaculture” means all activities as defined in section 219-2, when carried out by a qualified [aquaculturalist] aquaculturist as defined by section 219-2.”

SECTION 10. Section 261-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any other law to the contrary notwithstanding, no tour aircraft operation shall be permitted in any airport under the State’s control without having a permit. The director shall adopt rules to regulate tour aircraft operations by permit which shall include but not be limited to:

- (1) Identification of the types of aircraft to be utilized;
- (2) The number of operations daily for each type of aircraft used and the days and hours of operation;
- (3) Verification that the applicant is in compliance with all state statutes, including but not limited to [~~section-261-12;~~] this section;
- (4) Verification that the applicant has the Federal Aviation Administration certificate 121 or 135;
- (5) A written assessment by the department of the impact to the surrounding area and to the subject state airport;
- (6) Revocation of a permit based on the failure to comply with the information provided by the applicant and the terms and conditions set forth by the department in the permit; and any false statement or misrepresentation made by the applicant;
- (7) Establishment of penalties for revocation and suspension of a permit for failure to comply with permit conditions;
- (8) Annual renewal of permits; and
- (9) Any change of operations under the existing permit to be approved by the director.

No permit shall be authorized unless accompanied by[:

- (4) A] a Hawaii sectional aeronautical chart marked to indicate routes and altitudes to be used in conducting aerial tours[;] and

- [(2) Noise] noise abatement procedures to be employed in the vicinity of identified noise sensitive areas.

For the purposes of this subsection, “tour aircraft operations” means any business operation which offers aircraft for hire by passengers for the purpose of aerial observation of landmarks and other manmade or natural sites within an island of the State, and for the purpose of transporting passengers for tourist-related activities.”

SECTION 11. Section 281-31, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Class 5. Dispensers’ licenses.

- (1) A license under this class shall authorize the licensee to sell liquors specified in this subsection for consumption on the premises. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:
- [(1)] (A) A standard bar;
- [(2)] (B) A premise in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- [(3)] (C) A premise in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by commission rules; or
- [(4)] (D) A premise in which employees or entertainers are compensated to sit with patrons whether or not the employees or entertainers are consuming nonalcoholic beverages while in the company of the patrons pursuant to commission rules.
- (2) If a licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee’s establishment.
- (3)<sup>1</sup> For each category of class 5 licenses there shall be the following kinds:
- [(1)] (A) General (includes all liquors except alcohol);
- [(2)] (B) Beer and wine; and
- [(3)] (C) Beer.”

SECTION 12. Section 286-45, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any private contractor that has entered into a contract with the department to implement the traffic enforcement demonstration project pursuant to section 5 et seq. of Act 234, Session Laws of Hawaii 1998, as amended by Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000, may obtain from any county finance director the names and addresses of registered motor vehicle owners, which shall be used only as is necessary to carry out the provisions of the contract and the purposes of [that] Act 234, Session Laws of Hawaii 1998, as amended by Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000, and may not otherwise be publicly disclosed.”

SECTION 13. Section 286-172, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

- (1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;
- (2) Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under paragraph (1), to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports;
- (3) Any request from a person required or authorized by law to give written notice by mail to owners of vehicles; or
- (4) Any request from a private contractor that has entered into a contract with the department to implement the traffic enforcement demonstration project pursuant to section 5 et seq. of Act 234, Session Laws of Hawaii 1998[;]<sup>2</sup>, as amended by Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000; provided that names and addresses of registered motor vehicle owners shall be used only as is necessary to carry out the provisions of the contract and the purposes of [that] Act 234, Session Laws of Hawaii 1998, as amended by Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000, and may not otherwise be publicly disclosed.”

SECTION 14. Section 291C-163, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not be deemed to prevent counties with respect to streets and highways under their jurisdiction from:

- (1) Regulating or prohibiting stopping, standing, or parking except as provided in section 291C-111;
- (2) Regulating traffic by means of police officers or official traffic-control devices;
- (3) Regulating or prohibiting processions or assemblages on the highways;
- (4) Designating particular highways or roadways for use by traffic moving in one direction;
- (5) Establishing speed limits for vehicles in public parks;
- (6) Designating any highway as a through highway or designating any intersection as a stop or yield intersection;
- (7) Restricting the use of highways;
- (8) Regulating the operation and equipment of and requiring the registration and inspection of bicycles, including the requirement of a registration fee;
- (9) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (10) Altering or establishing speed limits;
- (11) Requiring written accident reports;
- (12) Designating no-passing zones;
- (13) Prohibiting or regulating the use of controlled-access roadways by any class or kind of traffic;
- (14) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (15) Establishing minimum speed limits;
- (16) Designating hazardous railroad grade crossing;
- (17) Designating and regulating traffic on play streets;
- (18) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;
- (19) Restricting pedestrian crossing at unmarked crosswalks;



- (20) Regulating persons propelling push carts;
- (21) Regulating persons upon skates, coasters, sleds, and other toy vehicles;
- (22) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (23) Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;
- (24) Adopting requirements on stopping, standing, and parking on streets and highways within their respective jurisdictions except as provided in section 291C-111;
- (25) Entering into an agreement with any private contractor to implement the traffic enforcement demonstration project pursuant to section 5 et seq. of Act 234, Session Laws of Hawaii 1998[;]<sup>2</sup>, as amended by Act 263, Session Laws of Hawaii 1999, and Act 240, Session Laws of Hawaii 2000; or
- (26) Adopting such other traffic regulations as are specifically authorized by this chapter.”

SECTION 15. Section 329-122, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The authorization for the medical use of marijuana in this section shall not apply to:

- (1) The medical use of marijuana that endangers the health or well-being of another person;
- (2) The medical use of marijuana:
  - (A) In a school bus, public bus, or any moving vehicle;
  - (B) In the workplace of one’s employment;
  - (C) On any school grounds;
  - (D) At any public park, public beach, public recreation center, recreation or youth center; or
  - (E) Other place open to the public; and
- (3) The use of marijuana by a qualifying patient, parent, or primary caregiver for purposes other than medical use permitted by this [part].”

SECTION 16. Section 346-59.6, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“[§346-59.6 Medicaid overpayment recovery. ]”

SECTION 17. Chapter 368, Hawaii Revised Statutes, is amended as follows:

1. By amending section 368-3, Hawaii Revised Statutes, to read:

“**§368-3 Powers and functions of commission.** The commission shall have the following powers and functions:

- (1) To receive, investigate, and conciliate complaints alleging any unlawful discriminatory practice under [~~chapters 489, 515,~~] part I of chapter 489, chapter 515, and part I of chapter 378, and complaints filed under this chapter, and conduct proceedings on complaints alleging unlawful practices where conciliatory efforts are inappropriate or unsuccessful;
- (2) To hold hearings and make inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of these hearings and inquiries, to administer oaths and affirmations, conduct depositions, compel the attendance of parties and witnesses and the production of documents by the issuance of subpoenas, examine parties and

witnesses under oath, require answers to interrogatories, and delegate these powers to any member of the commission or any person appointed by the commission for the performance of its functions;

- (3) To commence civil action in circuit court to seek appropriate relief, including the enforcement of any commission order, conciliation agreement, or predetermination settlement;
- (4) To issue the right to sue to a complainant;
- (5) To order appropriate legal and equitable relief or affirmative action when a violation is found;
- (6) To issue publications and results of investigations and research that, in its judgment, will tend to promote goodwill and minimize or eliminate discrimination in employment, housing, and public accommodations;
- (7) To submit annually to the governor and the legislature a written report of its activities and recommendations for administrative or statutory changes required to further the purposes of this chapter;
- (8) To appoint an executive director, deputy executive director, attorneys, and hearings examiners who shall be exempt from chapters 76 and 77, and investigators and other necessary support personnel who shall be subject to chapters 76 and 77. Section [103D-209(b)] 28-8.3 notwithstanding, an attorney employed by the commission as a full-time staff member may represent the commission in litigation, draft legal documents for the commission, provide other necessary legal services to the commission, and shall not be deemed to be a deputy attorney general; and
- (9) To adopt rules under chapter 91.”

2. By amending subsection (a) of section 368-11, Hawaii Revised Statutes, to read:

“(a) The commission shall have jurisdiction over the subject of discriminatory practices made unlawful by [~~chapters 489, 515,~~] part I of chapter 489, chapter 515, part I of chapter 378, and this chapter. Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice may file with the commission’s executive director a complaint in writing that shall state the name and address of the person or party alleged to have committed the unlawful discriminatory practice complained of, set forth the particulars thereof, and contain other information as may be required by the commission. The attorney general, or the commission upon its own initiative may, in like manner, make and file a complaint.”

3. By amending subsection (d) of section 368-11, Hawaii Revised Statutes, to read:

“(d) For the purposes of this chapter “unlawful discriminatory practice” means an unfair discriminatory practice or like terms, as may be used in [~~chapters 489, 515,~~] part I of chapter 489, chapter 515, or part I of chapter 378.”

4. By amending subsection (a) of section 368-13, Hawaii Revised Statutes, to read:

“(a) After the filing of a complaint, or whenever it appears to the commission that an unlawful discriminatory practice may have been committed, the commission’s executive director shall make an investigation in connection therewith. At any time after the filing of a complaint but prior to the issuance of a determination as to whether there is or is not reasonable cause to believe that [~~chapter 489, 515,~~] part I of chapter 489, chapter 515, part I of chapter 378, or this chapter has been violated, the parties may agree to resolve the complaint through a predetermination settlement.”

5. By amending subsection (a) of section 368-17, Hawaii Revised Statutes, to read:

“(a) The remedies ordered by the commission or the court under this chapter may include compensatory and punitive damages and legal and equitable relief, including, but not limited to:

- (1) Hiring, reinstatement, or upgrading of employees with or without back pay;
- (2) Admission or restoration of individuals to labor organization membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, with the utilization of objective criteria in the admission of persons to those programs;
- (3) Admission of persons to a public accommodation or an educational institution;
- (4) Sale, exchange, lease, rental, assignment, or sublease of real property to a person;
- (5) Extension to all persons of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent;
- (6) Reporting as to the manner of compliance;
- (7) Requiring the posting of notices in a conspicuous place that the commission may publish or cause to be published setting forth requirements for compliance with civil rights law or other relevant information that the commission determines necessary to explain those laws;
- (8) Payment to the complainant of damages for an injury or loss caused by a violation of [~~chapters 489, 515,~~] part I of chapter 489, chapter 515, part I of chapter 378, or this chapter, including a reasonable attorney’s fee;
- (9) Payment to the complainant of all or a portion of the costs of maintaining the action before the commission, including reasonable attorney’s fees and expert witness fees, when the commission determines that award to be appropriate; and
- (10) Other relief the commission or the court deems appropriate.”

SECTION 18. Section 414-313, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection [(h)]) or share exchange for approval by its shareholders.”

SECTION 19. Section 431:2-201.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The provisions of Title 42 United States Code section 300(gg), et seq., as they relate to group and individual health insurance shall apply to title 24, except:

- (1) Where state law provides greater health benefits or coverage than Title 42 United States Code section 300(gg), et seq., then the state law shall be applicable;
- (2) This section shall not be applicable or affect life insurance, endowment, or annuity contracts, or any supplemental contract thereto, described in section 431:10A-101(4);
- (3) The following definitions shall be used when applying Title 42 United States Code section 300(gg), et seq.:
  - (A) “Employee” means an employee who works on a full-time basis with a normal workweek of twenty hours or more;

- (B) "Group health issuer" means all persons offering health insurance coverage to any group or association, but shall not include those persons offering benefits exempted from Title I of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 under sections 732(c) and 733(c) of Title I of the Employee Retirement Income Security Act of 1974 and sections 2747 and 2791(c) of the Public Health Service Act; and
- (C) "Small employer" means an employer who employs between one and no more than fifty employees;
- (4) All group health issuers shall offer all small group health plans to all small employers whose employees live, work, or reside in the group health issuer's service areas; provided that the commissioner may exempt a group health issuer if the commissioner determines that the group health issuer does not have the capacity to deliver services adequately to enrollees of additional groups given its obligation to existing employer groups; and
- (5) A group health issuer shall be prohibited from imposing any preexisting condition exclusion.

For the purpose of this subsection, "small group health plans" means the medical plans currently offered, advertised, or marketed by a group health issuer for small [{}employers{}]."

SECTION 20. Section 431:10C-308.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The charges and frequency of treatment for services specified in section 431:10C-103.5(a), except for emergency services provided within seventy-two hours following a motor vehicle accident resulting in injury, shall not exceed the charges and frequency of treatment permissible under the workers' compensation supplemental medical fee schedule. Charges for independent medical examinations, including record reviews, physical examinations, history taking, and reports, to be conducted by a licensed Hawaii provider unless the insured consents to an out-of-state provider, shall not exceed the charges permissible under the appropriate codes in the workers' compensation supplemental [{}medical{}] fee schedule. The workers' compensation supplemental medical fee schedule shall not apply to independent medical examinations conducted by out-of-state providers if the charges for the examination are reasonable. The independent medical examiner shall be selected by mutual agreement between [{}the{}] insurer and claimant; provided that if no agreement is reached, the selection may be submitted to the commissioner, arbitration or circuit court. The independent medical examiner shall be of the same specialty as the provider whose treatment is being reviewed, unless otherwise agreed by the insurer and claimant. All records and charges relating to an independent medical examination shall be made available to the claimant upon request. The commissioner may adopt administrative rules relating to fees or frequency of treatment for injuries covered by personal injury protection benefits. If adopted, these administrative rules shall prevail to the extent that they are inconsistent with the workers' compensation supplemental medical fee schedule."

SECTION 21. Section 431:19-106.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Where a stock or mutual insurer converts to a reciprocal insurer or merges with a reciprocal insurer in which the reciprocal insurer will be the surviving company, the stock or mutual insurer shall include in its articles of amendment the fact of the conversion to, or merger with, a reciprocal [{}insurer{}] and that the resulting or surviving entity shall be a reciprocal insurer under the continued

jurisdiction of the commissioner, the effective date of the conversion of merger, and the name of the agent for service of process of the converted or surviving reciprocal insurer.”

SECTION 22. Section 467E-7, Hawaii Revised Statutes, is amended to read as follows:

“**§467E-7 Licensing requirements.** In addition to the licensing requirements provided by section 436B-11, the director shall consider the following as minimum evidence that an applicant is qualified to be licensed:

- (1) The applicant holds a master’s degree from a college or university in a social work program accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
- (2) The applicant has passed the national examination given by the [Association of Social Work Boards].”

SECTION 23. Section 489-7.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The remedies provided in subsection (a) shall be applied in class action and de facto class action lawsuits or proceedings provided that:

- (1) The minimum \$1,000 recovery provided in subsection (a) shall not apply in a class action or a de facto class action lawsuit; and
- (2) That portion of threefold damages in excess of compensatory damages shall be apportioned and allocated by the court in its exercise of discretion so as to promote effective enforcement of this [chapter] part and deterrence from violation of its provisions.”

SECTION 24. Section 489-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any person, firm, company, association, or corporation who violates this [chapter] part shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil action brought by the attorney general or the civil rights commission on behalf of the State. The penalties provided in this section shall be cumulative to the remedies or penalties available under all other laws of this State. Each day of violation under this [chapter] part shall be a separate violation.”

SECTION 25. Section 489E-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 490:1-201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 490:3-302(a), 490:7-501, or [490:9-308] 490:9-330 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.”

SECTION 26. Section 502-33, Hawaii Revised Statutes, is amended to read as follows:

“§502-33 Identification of reference to registration of original. The registrar shall not record any instrument requiring a reference to a prior recorded instrument, unless the same contains a reference to the book and page or document number of the registration of the original recorded instrument or a statement that the original instrument is unrecorded, as the case may be. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking registration of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon registration of the judgment. No amendment, continuation statement, termination statement, statement of assignment, or statement of release relating to security interests in goods which are or are to become fixtures shall be filed unless it complies with the requirements of part 5 of Article 9 of the Uniform Commercial Code~~, section 490:9-408~~. This section does not apply to any document mentioned herein executed prior to April 13, 1915.”

SECTION 27. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (m) to read as follows:

“(m) The provisions of section 571-52~~[(d) and (e)]~~ shall apply to all orders for automatic assignments issued under this section.”

SECTION 28. Chapter 661, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) of section 661-21, Hawaii Revised Statutes, to read:

“(d) This section shall not apply to any controversy involving an amount of less than \$500 in value. For purposes of this subsection, “controversy” means the aggregate of any one or more false claims submitted by the same person in violation of this ~~[(d)]~~part~~[(d)]~~. Proof of specific intent to defraud is not required.”

2. By amending section 661-23, Hawaii Revised Statutes, to read:

“~~[(d)]~~§661-23~~[(d)]~~ Evidentiary determination; burden of proof. A determination that a person has violated the provisions of this ~~[(d)]~~part~~[(d)]~~ shall be based on a preponderance of the evidence.”

3. By amending section 661-24, Hawaii Revised Statutes, to read:

“~~[(d)]~~§661-24~~[(d)]~~ Statute of limitations. An action for false claims to the State pursuant to this ~~[(d)]~~part~~[(d)]~~ shall be brought within six years after the false claim is discovered or by exercise of reasonable diligence should have been discovered and, in any event, no more than ten years after the date on which the violation of section 661-21 is committed.”

4. By amending subsection (a) of section 661-25, Hawaii Revised Statutes, to read:

“(a) A person may bring a civil action for a violation of section 661-21 for the person and for the State. The action shall be brought in the name of the State. The action may be dismissed only with the written consent of the court, taking into account the best interests of the parties involved and the public purposes behind this ~~[(d)]~~part~~[(d)]~~.”

SECTION 29. Section 706-648, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) The entire fee ordered or assessed shall be payable forthwith by cash, check, or by a credit card approved by the court. When a defendant is also ordered to pay a fine, make restitution, pay a crime victim compensation fee, or pay other fees in addition to the probation services fee under subsection [(1)], payments by the defendant shall be made in the following order of priority:

- (a) Restitution;
- (b) Crime victim compensation fee;
- (c) Probation services fee;
- (d) Other fees; and
- (e) Fines.”

SECTION 30. Section 805-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Upon subsequent hearing ordered by the court or upon the driver’s or registered owner’s motion, the court may, in its discretion, terminate any judgment previously entered under subsection (c) upon finding that the registered owner and the driver, as applicable, have complied with chapter 287 with respect to any prior accident as evidenced by a form properly validated by a police department and:

- (1) Complied with all requirements under chapter 431:10C as evidenced by a motor vehicle insurance identification card and the insurance policy issued by a licensed insurer; or
- (2) Complied with all requirements under chapter 431:10C as evidenced by a certificate of self-insurance issued by the insurance commissioner pursuant to section [(431:10C-107(d))].”

SECTION 31. Section 431:10C-104.5, Hawaii Revised Statutes, is repealed.

SECTION 32. Act 165, Session Laws of Hawaii 2000, is amended by amending the prefatory language in section 3 to read as follows:

“SECTION 3. [Chapter] Section 5-16, Hawaii Revised Statutes, is amended to read as follows:”

SECTION 33. Act 249, Session Laws of Hawaii 2000, is amended by amending the prefatory language in section 1 to read as follows:

“SECTION 1. Chapter 245, Hawaii Revised Statutes, is amended by adding [two new parts] a new part to be appropriately designated and to read as follows:”

SECTION 34. Act 250, Session Laws of Hawaii 2000, is amended by amending the prefatory language following section 2 to read as follows:

“SECTION 3. Section 432E-1, Hawaii Revised Statutes, is amended by adding [six] seven new definitions to be appropriately inserted and to read as follows:”

SECTION 35. Act 253, Session Laws of Hawaii 2000, section 77, is amended by amending subsection (c) of section 78-12, Hawaii Revised Statutes, to read as follows:

“(c) The officer, agent, employee or other person in the service of the jurisdiction alleged to be indebted to a jurisdiction may waive the right to a hearing to determine the indebtedness and instead assign by contract to the officer charged with the duty of collecting debts:

- (1) The priority right to payment of the total amount of the alleged indebtedness; and

- (2) The right of the officer to deduct from each and every periodic payment normally due the assignor an amount equal to the maximum legally permissible amount deductible under garnishment law until the total amount owing is paid in full.

For purposes of this section, a person shall be deemed to waive the hearing if the person fails to request a hearing within fifteen days from the date the person was notified of the indebtedness and the opportunity to request a hearing.”

SECTION 36. Act 253, Session Laws of Hawaii 2000, section 74, is amended by amending subsection (b) of section 78- , Hawaii Revised Statutes, entitled “Incentive and service awards”, to read as follows:

“(b) The programs may provide for cash awards to recognize suggestions, inventions, superior accomplishments, length of service, and other personal or group efforts. A cash award shall be in addition to the employee’s regular compensation [of the recipients]. The acceptance of a cash award shall constitute an agreement that use by the government of any idea, method, or device for which the award is made shall not form the basis of a further claim upon the government by the employees or the employees’ heirs and assigns.”

SECTION 37. Act 253, Session Laws of Hawaii 2000, section 104, is amended by amending subsection (d) of section 89A-1, Hawaii Revised Statutes, to read as follows:

“(d) No employee of the office of collective bargaining and managed competition shall be included in the civil service, any civil service classification system, or any appropriate bargaining unit; provided that any civil service position on the effective date of this Act shall not be exempted from civil service until the incumbent in that position on the effective date of this Act vacates that position.”

SECTION 38. Act 297, Session Laws of Hawaii 2000, is amended by amending section 35 to read as follows:

“SECTION 35. This Act shall take effect upon its approval; provided that:

- (1) Part I, upon its approval, shall apply to taxable years beginning after December 31, 1999; [~~and~~]
- (2) Part III shall take effect on July 1, 2000[.]; and
- (3) Amendments made to section 36-27 by this Act shall not be repealed when that section is reenacted on July 31, 2003, pursuant to section 9 of Act 142, Session Laws of Hawaii 1998.”

SECTION 39. Statutory material to be repealed is bracketed and stricken.<sup>3</sup> New statutory material is underscored.

SECTION 40. This Act shall take effect upon its approval; provided that:

- (1) Section 5 shall take effect on July 1, 2002;
- (2) Sections 25 and 26 shall take effect on July 1, 2001;
- (3) Sections 35 to 37 shall take effect on July 1, 2002;
- (4) Section 32 shall take effect retroactive to June 6, 2000;
- (5) Sections 33 and 34 shall take effect retroactive to June 19, 2000; and
- (6) Section 38 shall take effect retroactive to July 5, 2000.

(Approved April 26, 2001.)

**Notes**

- 1. “(3)” should be underscored.
- 2. So in original.
- 3. Edited pursuant to HRS §23G-16.5.