

**LAWs
OF THE
TERRITORY OF HAWAII
PASSED BY THE
TWENTIETH LEGISLATURE**

**REGULAR SESSION
1939**

Commenced on Wednesday, the Fifteenth Day of February, and
Ended on Wednesday, the Twenty-sixth Day of April.

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1939

LIST OF OFFICERS AND MEMBERS OF THE
LEGISLATURE OF THE TERRITORY OF HAWAII

REGULAR SESSION 1939

SENATE

President.....George P. Cooke, Kaunakakai, Molokai
Vice-President.....Eugene H. Beebe, Honolulu, Oahu
Clerk.....Ellen D. Smythe, Honolulu, Oahu

District	Name	Address
First.....	*Cunningham, Sarah Todd (R).....	Hilo, Hawaii
	Hill, William H. (R).....	Hilo, Hawaii
	**Kealoha, James (R).....	Hilo, Hawaii
	Silva, Charles H. (R).....	Kohala, Hawaii
Second.....	Cooke, George P. (R).....	Kaunakakai, Molokai
	*Crozier, Clarence A. (NP).....	Wailuku, Maui
	*Holt, Harry H. (R).....	Wailuku, Maui
Third.....	*Beebe, Eugene H. (R).....	Honolulu, Oahu
	*Brown, Francis H. Ii (R).....	Honolulu, Oahu
	Farrington, Joseph R. (R).....	Honolulu, Oahu
	Heen, William H. (D).....	Honolulu, Oahu
	+Sylva, Francis K. (R).....	Honolulu, Oahu
	*Trask, David K. (D).....	Kaneohe, Oahu
Fourth.....	Fernandes, John B. (D).....	Kapaa, Kauai
	*Wilcox, Elsie H. (R).....	Lihue, Kauai

D.....	Democrat.....	3
R.....	Republican.....	11
NP.....	Nonpartisan.....	1

* Holdover Senators.

** Filling vacancy caused by the death of Senator James Campsie.

† Filling vacancy caused by the death of Senator Joseph L. Sylva.

HOUSE OF REPRESENTATIVES

Speaker Roy A. Vitousek, Honolulu, Oahu
 Vice-Speaker Emil M. Muller, Wailuku, Maui
 Clerk Oliver P. Soares, Honolulu, Oahu

District	Name	Address
First	Carvalho, V. A. (R)	Hilo, Hawaii
	Costa, August, Jr. (R)	Hilo, Hawaii
	Kimura, Albert Kazuo (R)	Hilo, Hawaii
	Lai Hipp, Henry (R)	Hilo, Hawaii
Second	Akina, Arthur A. (R)	Kamuela, Hawaii
	Ako, James (R)	Kailua, Hawaii
	Aona, Francis K. (R)	Kealakekua, Hawaii
	Wilhelm, Robert L. (R)	Naalehu, Hawaii
Third	Baker, Edward (R)	Makawao, Maui
	Engle, W. H. (R)	Kahului, Maui
	Goodness, Reuben (R)	Wailuku, Maui
	Muller, Emil M. (R)	Wailuku, Maui
	Paschoal, Manuel G. (R)	Puunene, Maui
Fourth	Robinson, Henry P., Jr. (R)	Lahaina, Maui
	Hayes, Flora Kaai (R)	Honolulu, Oahu
	Kimball, Richard King (R)	Honolulu, Oahu
	Macfarlane, Walter K. (R)	Honolulu, Oahu
	Vitousek, Roy A. (R)	Honolulu, Oahu
	Woolley, Ralph E. (R)	Honolulu, Oahu
Fifth	Worrall, J. Howard (R)	Honolulu, Oahu
	Akina, Henry C. (R)	Honolulu, Oahu
	Eguchi, George M. (R)	Honolulu, Oahu
	Fong, Hiram L. (R)	Honolulu, Oahu
	Holt, George H., Jr. (D)	Waianae, Oahu
	Lee, Kam Tai (R)	Honolulu, Oahu
Sixth	Mossman, Bina (R)	Honolulu, Oahu
	Gomes, Clement (R)	Lihue, Kauai
	Ouye, Thomas (R)	Lihue, Kauai
	Schumacher, Fred L. (D)	Lihue, Kauai
	Wright, William H. (R)	Waimea, Kauai

D	Democrat	2
R	Republican	28

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LAWS OF THE TERRITORY OF HAWAII

PASSED AT THE

TWENTIETH REGULAR SESSION OF THE LEGISLATURE

1939

Title I. GENERAL LAWS.

CHAPTER 1. COMMON LAW AND STATUTES.

CONSTRUCTION.

[A-1] An Act to Amend Section 17 of the Revised Laws of Hawaii 1935, Relating to the Construction of the Word "Person" and Similar Words.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 17 of the Revised Laws of Hawaii 1935 is hereby amended by inserting after the word "corporations", in the third line thereof, the words "firms, associations.". [C. C. 1859, s. 17; R. L. 1935, s. 17.]

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) S.B. 363, Act 150.

CHAPTER 3. EMINENT DOMAIN.

[Sec. 68A. Real Property Tax Lien, Revision of Taxes. Added by Act 211, infra, page 72.]

CHAPTER 4. EXPENDITURE OF PUBLIC MONEY.

COMPETITIVE CONTRACTS.

[A-2] An Act to Amend Chapter 4 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto to be Designated Section 80-A, Relating to the Expenditure of Public Money.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 4 of the Revised Laws of Hawaii 1935, as amended, is hereby amended by adding thereto a new section to be designated section 80-A, reading as follows:

"Sec. 80-A. [Purchases to be made in Territory, Exceptions.] Whenever used in this section 'person' shall include every individual, partnership, firm, society, unincorporated association, joint adventure, group, hui, joint stock company, corporation, trustee, executor, administrator, trust estate, decedent's estate, trust or other entities, whether such persons are doing business for themselves or in a fiduciary capacity.

No expenditure of public money for the purchase of materials, supplies, goods, wares, merchandise or produce for public use shall be made, except as hereinafter provided, by any department, bureau, organization or municipal or political subdivision of the territorial, municipal or county governments, from any person who has not maintained a permanent business in good faith in an established place of business in the Territory and has not paid personal property taxes in the Territory for a period of two years prior to any purchase herein contemplated; provided, however, that whenever it shall be established that any such purchases cannot be made in the Territory or that the lowest price for which such materials, supplies, goods, wares, merchandise or produce can be purchased in the Territory exceeds the charge usually and customarily made to private persons for such materials, supplies, goods, wares, merchandise or produce, or that the price at which such purchases can be made in the Territory exceeds by not less than five per cent. the price at which such purchases can be made outside the Territory, then such purchases may be made outside the Territory.

In all cases where by the provisions of law contracts for the purchase of materials, supplies, goods, wares, merchandise or produce are required to be let by competitive bids, the lowest bid made by any person who has maintained a permanent business in good faith in an established place of business in the Territory and who has paid personal property taxes in the Territory for a period of two years prior to such bid, shall be deemed the lowest bid for the award of the contract, if such bid is less than five per cent. higher than the lowest bid made by any person who has not maintained a permanent business in good faith in an established place of business in the Territory and who has not paid personal property taxes in the Territory for a period of two years prior to such bid.

In no event, whenever any such purchase can be made in the Territory at a price which does not exceed the charge usually and customarily made to private persons for such materials, supplies, goods, wares, merchandise or produce, shall any such purchase of materials, supplies, goods, wares, merchandise or produce for public use be made by any department, bureau, organization or municipal or political subdivision of the territorial, municipal or county governments from any person who has not maintained a permanent business in good faith in an established place of business in the Territory, and has not paid personal property taxes in the Territory, for a period of two years prior to any such purchase, unless such contract be at the prevailing consumer's price for such materials, supplies, goods, wares, merchandise or produce of like quality and quantity as established by recognized merchants having an established place of business on the mainland of the United States, plus transportation and delivery charges to the Territory.

Any purchase made or any contract awarded or executed in violation of this Act shall be void and of no effect, and no payment shall be made by the Territory or any municipal, county or other political sub-

FEDERAL-AID FUNDS.

SERIES A-2.—Act 260.]

SERIES A-3.—Act 196.]

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division thereof or by any department, bureau or organization thereof, on account of any such purchase or contract.

Any officer of the Territory or of any municipal, county or other political subdivision thereof, or any person acting under or for such officer or any other person who violates any provision of this Act shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than one year, or by both fine and imprisonment."

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1939.) **S.B. 367, Act 260.**

[Sec. 82A. Prerequisite for final settlement of contracts with Territory or subdivisions thereof. Added by Act 213, infra, page 64.]

FEDERAL-AID FUNDS.

[A-3] An Act Authorizing the Governor to Accept Acts of Congress on Behalf of the Territory, and Providing for the Receipt and Expenditure of Federal-Aid Moneys in the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 82B.] Section 1. **Governor may accept federal acts.** The governor is hereby authorized and empowered to accept, on behalf of the Territory, the provisions of any Act of Congress making grants or allotments of federal-aid moneys available for expenditure in the Territory.

[Sec. 82C.] Section 2. **Boards, etc., may accept funds, comply with federal acts.** Except as otherwise provided by law, any board, commission, department or officer of the Territory may accept and receive on behalf of the Territory, and to receipt therefor, any and all grants or allotments of federal-aid moneys made available to the Territory by or pursuant to an Act of Congress, and to enter into or make such plan, agreement or other arrangement with the agency designated by such Act of Congress as is necessary to carry out the purposes of such Act; provided, however, that if as a condition to receiving such federal-aid moneys it is necessary to match all or any part of such grant or allotment with territorial moneys no such plan, agreement or arrangement may be entered into unless the board, commission, department or officer has under its or his control moneys which may be expended lawfully for such purpose.

[Sec. 82D.] Section 3. **Treasury as depository; duties of auditor.** All such federal-aid moneys received by the Territory, except as otherwise provided for by the federal government, shall be deposited with the treasurer of the Territory, and shall be disbursed upon warrants drawn by the auditor of the Territory supported by vouchers approved by the board, commission, department or officer having charge of the expenditure of such moneys by virtue of the plan, agreement or arrangement entered into or made with the proper federal agency.

The auditor is hereby authorized to prescribe and maintain such system of accounts and accounting as may be required by the federal government, or any agency thereof, in carrying out the objects and purposes of the plan, agreement or arrangement.

GENERAL LAWS.

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[SERIES A-3.—ACT 196.
[SERIES A-4.—ACT 216.]

[Sec. 82E.] **Section 4. Liberal construction.** This Act shall be liberally construed to the end that the Territory may receive the benefits of Acts of Congress which will promote the general welfare of the Territory and its people. Section 82-A of the Revised Laws of Hawaii 1935, is specifically made applicable to any contracts which may be entered into pursuant to the provisions of this Act.

[Sec. 82F.] **Section 5. Partial invalidity.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 6. This Act shall take effect upon its approval.

(Approved May 8, 1939.) **S.B. 378, ACT 196.**

CITIZEN LABOR.

[A-4] An Act to Amend Section 86 of the Revised Laws of Hawaii 1935, as Amended By Act 211, Series A-6, of the Session Laws of Hawaii 1935, Relating to the Qualifications of Government Officials and Employees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 86 of the Revised Laws of Hawaii 1935, as amended by Act 211, Series A-6, of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 86. Government officials and employees to be citizens and residents. All officers, whether elective or appointive, and all employees in the service of the government of the Territory or in the service of any county or city and county or municipal subdivision of the Territory, except officers and employees in the service of the government of the Territory of Hawaii who are serving in the county of Kalawao, shall be citizens of the United States of America and residents of the Territory for at least three years immediately preceding their appointment, provided, however:

(a) That the foregoing requirements shall not apply to teachers in public schools above the elementary grades, but in the appointment of such teachers preference shall be given to local teachers of the same standing, grade or rating as those from without the Territory;

(b) That, in cases where it is not reasonably practicable to obtain competent persons with the foregoing qualifications, persons without such qualifications may, with the approval of the governor where the compensation for such employment is paid out of territorial funds, or with the approval of the mayor or chairman of the board of supervisors where the compensation for such employment is paid out of city and county or county funds, be employed until persons with such qualifications competent for such service can be obtained;

(c) That the foregoing requirement as to citizenship shall not apply to any female person who, having been a citizen, has lost her citizenship through marriage to an alien." [L. 1909, c. 32, s. 1; am. L. 1923, c. 19, s. 1; R. L. 1935, s. 86; am. L. 1935, c. 211, s. 1; am. L. 1939, c. 216, s. 1.]

Section 2. The provisions of this Act (a) shall not be construed to supersede the provisions of section 712 or of section 87 of the Re-

EXPENDITURE OF PUBLIC MONEY.

SERIES A-4.—Act 216.]

SERIES A-5.—Act 13]

SERIES A-6.—Act 207.]

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[Sic]

vised Laws of Hawaii 1935, and (b) shall be construed to supersede any provision of the Revised Laws of Hawaii 1935, which prescribes a term of residence in the Territory of less than three years as a qualification for election or appointment to any public office or for any public employment, but not otherwise.

Section 3. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **S.B. 30, Act 216.**

MASTERS, SALARY WITHHELD FOR ACTING AS.

[A-5] An Act Prohibiting Certain Public Officers and Employees from Receiving Compensation for Services as Masters to Examine Accounts of Guardians, Trustees, Executors and Administrators.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 96A.] Section 1. [Certain Public Officers Not to Receive Pay as Masters.] No person holding any salaried office or employment in the executive or judicial branches of the government of the Territory of Hawaii or any county thereof, or holding any office or employment any part of the compensation for which is paid by the Territory or any county, shall receive, directly or indirectly, any fee or other remuneration for services rendered as master to examine, pass or report upon any account filed in any court of the Territory by any guardian, trustee, executor or administrator, and any such person receiving or accepting any such fee or remuneration shall by virtue of such acceptance be deemed to have released and forfeited all claim and right thereafter to any compensation payable by the Territory or county by virtue of said office or employment, and in addition, if he is holding an office or employment, subject to the power of the legislature of the Territory to provide for forfeiture thereof as herein provided, shall be deemed to have forfeited and been ipso facto discharged from his said office or employment; and in any event upon acceptance of any such fee or remuneration the auditor of the Territory or of any county is hereby prohibited from issuing any warrant to such person except for services rendered prior to such forfeiture.

Section 2. This Act shall take effect upon its approval, but shall not apply to masters appointed prior to such effective date.

(Approved March 21, 1939.) **S.B. 82, Act 13.**

PAY OF OFFICIALS ON ACTIVE MILITARY SERVICE.

[A-6] An Act to Amend Sections 97 and 98 of the Revised Laws of Hawaii 1935, Relating to Officers and Employees of the Several Counties and the Territory of Hawaii While on Ordered Military or Naval Duty.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 97 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 97. Pay of officers and employees. All officers and employees of the territory and the several counties shall be entitled, while on active duty or during periods of camps of instruction or field maneuvers as members of the Hawaii national guard, naval militia, organized reserves, including the officers' reserve corps, and the enlisted reserve corps, under call of the President of the United States or the governor of the territory, to receive pay as provided by law. During the absence of any such officer or employee, while in the performance of ordered military or naval duty as a member of the national guard, naval militia, organized reserves, including the officers' reserve corps, and the enlisted reserve corps, he shall receive his salary or compensation as such officer or employee, but only for a period not exceeding fifteen days in any calendar year." [L. 1917, c. 170, s. 1; am. L. 1925, c. 110, s. 1; am. L. 1933, c. 201, s. 1; R. L. 1935, s. 97; am. L. 1939, c. 207, s. 1.]

Section 2. Section 98 of said Revised Laws is hereby amended to read as follows:

"Sec. 98. Non-forfeiture for absence. Every officer and employee of the territory and the several counties who is a member of the national guard, naval militia, organized reserves, including the officers' reserve corps, and the enlisted reserve corps, shall be entitled to absent himself from his duties or service while engaged in the performance of ordered military or naval duty and while going to and returning from such duty.

No such officer or employee shall be subjected by any person, directly or indirectly, by reason of such absence to any loss or diminution of vacation or holiday privileges or be prejudiced by reason of such absence with reference to promotion or continuance in office, employment, reappointment to office, or reemployment." [L. 1917, c. 170, s. 2; am. L. 1925, c. 110, s. 2; am. L. 1933, c. 201, s. 2; R. L. 1935, s. 98; am. L. 1939, c. 207, s. 2].

Section 3. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **H.B. 93, Act 207.**

GENERAL DEPARTMENTAL REGULATIONS.
CIVIL SERVICE LAW.

SERIES A-7.—ACT 7.]
SERIES A-8.—ACT 187.]

7

**CHAPTER 5. GENERAL
DEPARTMENTAL REGULATIONS.**

RULES AND REGULATIONS, PUBLIC HEARINGS ON.

[A-7] An Act Requiring the Holding of Public Hearings and Publication of Notice Thereof with Respect to the Making of Rules and Regulations having the Force and Effect of Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 154.] Section 1. [Public hearings on rules, regulations, having effect of law] All officers who and all boards, commissions and other governmental agencies which have the power to make rules and regulations having the force and effect of law shall prior to the making of any rule or regulation, hold a public hearing upon such proposed rule or regulation of which notice shall first have been published in a newspaper of general circulation not less than four days before the date set for such hearing. Such notice shall state the time and place for such hearing and the general purpose of the proposed rule or regulation to be considered at such hearing.

Section 2. This Act shall take effect from and after the date of its approval.

(Approved March 13, 1939.) **S.B. 56, Act 7.**

CHAPTER 5A. CIVIL SERVICE LAW.

[A-8] An Act Providing for Civil Service for those Employed in the Public Service of the Territory of Hawaii and of its Political Subdivisions and Repealing Sections 907 to 913 and Sections 3160 to 3166 of the Revised Laws of Hawaii 1935.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 155.] Section 1. **Purpose of this Act.** It is hereby declared to be the purpose of this Act to establish a personnel system based on merit principles and scientific methods whereby a fair and equal opportunity for public service is guaranteed to all citizens; conditions of service shall be established which will assure officers and employees of character and capacity a permanent tenure in the public service; and the efficiency of governmental departments will be increased by the improvement of methods of personnel administration.

PART I

CIVIL SERVICE FOR TERRITORY OF HAWAII.

[Sec. 155A.] Section 2. **Civil service commission.** There is hereby established a civil service commission for the Territory of Hawaii consisting of three (3) members who shall be of good repute and standing in the community. The members of the civil service commission for the Territory of Hawaii shall be appointed by the governor in the manner prescribed by paragraph 1 of section 80 of the Organic Act and shall hold office for six (6) years or until their successors are appointed and

qualified; provided, however, that of the first members appointed under the provisions of this Act, one shall be appointed for a term expiring January 1, 1941, one for a term expiring January 1, 1943, and one for a term expiring January 1, 1945. The commission shall annually elect from its membership a chairman. Appointments to fill any vacancy caused by the death, resignation or inability to act of any commissioner shall be for the unexpired term of such commissioner. Not more than two members of the commission shall belong to the same political party.

[Sec. 155B.] Section 3. Commission to serve without pay; meetings. The commissioners shall serve without pay but each of said commissioners shall be paid his necessary traveling expenses incurred in the discharge of his duties as commissioner, provided, that when any such commissioner shall be required to travel from any island to another island of the Territory in the performance of his duties, as such commissioner, he shall be allowed his transportation fares and in addition thereto ten dollars a day to cover all other expenses.

The commission shall meet at least once in each month, at such place as shall be made available for such purpose by the governor, and at such times as may be designated in advance by the commission and at such other times for which meetings may be specially called by the chairman or the governor. All meetings of the commission shall be open to the public.

Any two of the members shall constitute a quorum. The commission shall make an annual report to the governor not later than the 15th of February of each year.

[Sec. 155C.] Section 4. Director of personnel. The commission shall appoint a director of personnel who shall be the administrator, chief examiner and secretary of the commission. At the time of his appointment, the director of personnel shall be thoroughly familiar with the principles and methods of personnel administration generally used by those in charge of employment work for large public or private employers. He shall be a person of good repute, competent, trained, and with actual experience in personnel administration and shall not be opposed to the application of merit principles and scientific methods to public personnel policies and procedures.

The director of personnel, with the approval of the commission, shall appoint such assistants and employees as may be necessary for the proper performance of the commission's duties under this Act and for which appropriations shall have been made by the legislature. Such assistants and employees shall be members of the civil service system and shall be chosen in conformity with this Act and the rules of the commission. The compensation of all persons engaged by the commission shall be paid at such rates as the commission shall approve, in accordance with such classification and compensation schedules as may be then in effect pursuant to law and applicable to the positions held by such persons.

[Sec. 155D.] Section 5. Appointments and promotions; positions excepted from the provisions of this Act. As used in this Act, "position" includes both an office and an employment other than an office. All appointments, promotions and changes in status of the persons employed in the public service of the Territory of Hawaii, or whose compensation is paid from territorial funds, shall be made in the manner prescribed by this Act and in accordance with the rules and regulations adopted by the commission in the

manner hereinafter set forth; provided, however, that this Act shall not apply to:

- (a) Commissioned and enlisted personnel of the National Guard of Hawaii as such;
- (b) Positions filled by persons employed by contract to render a special temporary service for the Territory where such contract is certified by the commission to be for a service which, from its nature, can better be performed by other than a civil service employee;
- (c) Positions filled by the legislature of the Territory of Hawaii, or by either house or committee thereof;
- (d) Employees in the office of the governor;
- (e) Director, bureau of the budget; and the director of personnel;
- (f) The household employees at Washington Place;
- (g) Teachers (as defined in section 718 of the Revised Laws of Hawaii 1935) in the department of public instruction, and members of the faculty of the University of Hawaii including within the term "faculty" teachers, research workers, extension agents, and all chief administrative officers of said university;
- (h) Officers elected by popular vote;
- (i) Officers and members of any board, commission or other territorial agency whose appointments are required by law to be confirmed by the Senate of the Territory of Hawaii;
- (j) Judges, referees, receivers, masters, attorneys, district court practitioners, jurors, jury commissioners, and notaries public;
- (k) Institutional inmate or patient employees or help in territorial institutions;
- (l) One first deputy or first assistant for each officer appointed under or in the manner provided by the first paragraph of section 80 of the Organic Act, and heads of departments and bureaus whose appointments are made or approved by the governor;
- (m) Inspectors of election, election clerks, and other election employees;
- (n) One secretary or clerk for each justice of the supreme court;
- (o) The warden appointed by the board of prison directors;
- (p) The assistant attorney general, deputies attorney general, and special deputies attorney general;
- (q) The territorial commissioner of public health;
- (r) The director appointed by the board of public welfare;
- (s) The chief administrative officer of the territorial unemployment compensation board;
- (t) All officers specifically exempted from the provisions of this Act by any other law.

[Sec. 155E.] Section 6. **Rules and regulations.** The commission shall from time to time make such rules and regulations governing the selection, appointment, promotion, demotion, lay off, transfer, termination of service and leaves of absence of persons employed or to be employed in the civil service of the Territory of Hawaii as in its judgment shall secure the best service and such rules and regulations when approved by the governor after having been published once a week for three successive weeks (three insertions) in a newspaper of general circulation throughout the Territory shall have the force and effect of law. The rules and regulations of the commission may be altered, amended or repealed in like manner as the same were adopted. Any rules or regulations restricting political activities by employees shall uniformly apply to the Territory and all of its political subdivisions. Such rules and regulations shall, among other things, as nearly as the conditions of good administration shall warrant, comply with the following requirements:

(1) That there shall be open competitive examinations for testing the fitness of applicants for positions or employment in the civil service; such examinations shall be practical in their character and so far as possible shall provide for ascertaining the physical and educational qualifications, experience, knowledge and skill of applicants and their relative capacity and fitness for the proper performance of the duties of the position in which they seek to be employed; notice of the time and place of each examination and of the positions for which applicants will be examined shall be given by posting a written statement thereof in the office of the commission and by one or more publications thereof in a newspaper of general circulation throughout the Territory, the first such publication to be not less than thirty days before the examination date, and by such other means of publicity as shall, in the commission's opinion, be calculated to apprise all prospective applicants for such positions of such examinations;

(2) That there shall be a period of probation not less than six months and not exceeding one year except as otherwise provided in this Act before any absolute appointment or employment of any person in the civil service of the Territory of Hawaii is made;

(3) That no person in the civil service shall be obliged to contribute to any political fund or to render any political service and that he shall not be removed or otherwise prejudiced for refusing to do so;

(4) That no person in said service shall use his official authority or influence to coerce the political action of any person or body;

(5) That there shall be noncompetitive examinations in all proper cases before the commission when competent persons do not apply after notice has been given of the existence of the vacancy, or when in the opinion of the commission the position to be filled calls for special qualifications and training that do not admit of competition, all, however, under such rules as may be prescribed by the commission;

(6) That notice shall be given in writing by the appointing power to the said commission of the person selected for the employment among those who have been examined, of the termination of the employment of any such persons during probation, of transfers, resignations and removals, and of the date thereof, and a record of the same shall be kept by the said commission;

(7) That all examinations shall be public and free to all citizens of the Territory, with proper limitations as to health, age, sex, education, experience, habits and character, which examinations may be oral or written or partly oral and partly written, and may include tests of manual skill and physical strength, all such examinations to be under the control of the commission, which may designate the director of personnel or some other suitable person to conduct them; provided that when such examinations are oral they shall be objective;

(8) That whenever any person has been appointed under the provisions of this Act and in full conformity with the rules and regulations of the commission for the civil service, he shall hold such position during good behavior subject to suspension or removal only as provided in this Act and in the rules and regulations of the commission, and subject to retirement as provided in chapter 260, Revised Laws of Hawaii 1935; (Act 55 Session Laws 1925, Act 251 Session Laws of 1927 and all other Acts supplementary thereto or mandatory thereof);

(9) That no person holding any position in the civil service shall be dropped or dismissed from his position on racial, religious or political grounds, but only for such causes as will promote the efficiency of government service and for reasons given him in writing, and the person so removed or dropped shall receive written notice of such action and of any charge preferred against him and be furnished with a certified copy thereof; provided, however, that any appointing authority may terminate the employment of any person during said person's probationary period without the causes therefor being expressed in writing;

(10) That vacancies and new positions shall be filled by promotion or appointment, as the case may be, of persons then in the civil service whenever practicable and in the opinion of the commission and of the heads of the various departments of the government for the best advantage of the public service; otherwise from persons who have satisfactorily passed the examination prescribed by the commission for the particular position or vacancy to be filled;

(11) That whenever any territorial employee who has been performing his duties in a satisfactory manner, as shown by the records of the department or other agency in which he has been employed, is laid off because of lack of work or lack of funds, or has been on authorized leave of absence and is ready to report for duty when a position is open, or has resigned in good standing and with the consent of the civil service commission and the appointing authority, and has withdrawn his resignation without being restored to his position, the commission shall cause the name of such employee to be placed on the reemployment list for the appropriate type of position for reemployment within two years thereafter when vacancies in the type of position occur. The order in which names shall be placed on the reemployment list for any type of position shall be established by rule. No person shall be reinstated or have his name restored to a reemployment list unless such resignation is withdrawn within one year after it has been presented and accepted;

(12) That if necessary to prevent stoppage of public business or inconvenience to the public, but not otherwise, the commission may authorize the filling of a position by provisional appointment pending the establishment of a reemployment or employment list.

Such provisional appointments shall continue only until the establishment of a reemployment or employment list and in no case shall such appointment exceed a total of ninety days in any one year; provided, however, that any provisional appointment made during the year 1939 may be for a period expiring December 31, 1939. No person shall receive more than one provisional appointment in any twelve-month period;

(13) That there shall be separate lists of applicants for different kinds of labor and there may be separate labor registration lists for departments, institutions, districts or localities; that each applicant for registration on the labor lists may be required to pass such examination as the commission may deem proper or necessary with respect to his age, residence, citizenship, physical and mental condition, ability to labor, habits, skill, capacity, and experience;

(14) That any person who has been appointed to a position in the civil service under the provisions of this Act and the rules and regulations of the commission and who has been laid off for reasons which are certified by the appointing authority to the director as not reflecting discredit on the person so laid off, may, if such person so requests, have his name placed on an appropriate reemployment list.

[Sec. 155F.] Section 7. Suspensions; dismissals; appeals to the commission. (a) An appointing authority may, for disciplinary purposes, suspend without pay a regular employee for such length of time as he considers appropriate not exceeding thirty days at any one time and not aggregating more than sixty days in any calendar year. With the approval of the director of personnel a regular employee may be suspended for a longer period pending the investigation or trial of any charges against him.

(b) An appointing authority may dismiss or demote any regular employee when he considers that the good of the service will be served thereby. No dismissal or demotion of a regular employee shall take effect unless at least ten days before the effective date thereof the appointing authority gives to such employee a written statement setting forth the specific reasons upon which such dismissal or demotion is based and files a copy of such statement with the director of personnel. The employee shall have an opportunity to file with the appointing authority a written statement regarding the proposed dismissal or demotion, a copy of which shall be filed with the director of personnel. A regular employee who is dismissed or demoted shall have the right to appeal to the commission. If the director of personnel determines that the statement of specific reasons for a dismissal given by the appointing authority shows that such dismissal does not reflect discredit on the employee dismissed, the name of such employee shall, if he so requests, be placed on the appropriate reemployment list or lists.

(c) Any regular employee who is dismissed or demoted may appeal to the commission within twenty days after such action is taken. Upon such appeal both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard publicly and to present evidence. At the hearing of such appeals technical rules of evidence shall not apply. If the commission finds that the action appealed from was taken by the appointing authority for any political, religious or racial reason, the employee shall be reinstated to his position without

loss of pay. In all other cases, the findings and recommendations of the commission shall be submitted to and considered by the appointing authority, who, within ten days thereafter, shall make the final decision disposing of the appeal, which decision shall not be reviewable by any court. If such final decision is in favor of the employee, the appointing authority may reinstate him and approve the payment of any salary or wages lost by him. When the findings and recommendations of the commission are in favor of the employee, but such employee is not reinstated, the commission shall direct that his name be placed on an appropriate reemployment list, which direction shall be enforced by the director of personnel and in case of such direction such employee shall receive from the Territory the pay lost by him, but not more than sixty days' pay in the position from which he was dismissed.

(d) An appeal to the commission may also be taken, in the manner provided by paragraph (c) of this section, by a regular employee who is suspended or laid off and who claims that the suspension or lay-off was made for political, religious or racial reasons. If the commission finds that the employee was suspended or laid off for any such reason, he shall be reinstated without loss of pay.

[Sec. 155G.] **Section 8. Investigations; attendance of witnesses.** The commission shall have power to make investigations concerning all matters touching the enforcement and effect of the provisions of this Act and the rules and regulations prescribed thereunder, or concerning the action of any officer or employee of the Territory of Hawaii in respect to the execution of the provisions of this Act; and in the course of such investigations or any hearings on appeal or otherwise before the commission, each commissioner and the director of personnel shall have power to administer oaths.

In all investigations made by the commission and in all proceedings before it, the commission shall have the same powers respecting compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. All subpoenas shall be signed by the chairman of the commission or the director of personnel.

If any person subpoenaed as a witness to attend before the commission, or to produce any books, papers, or records called for by the process of the commission, shall fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the commission, the director of personnel or any authorized agent, material to the matter pending before the commission, it shall be the duty of any circuit judge, on application by the commission or any member thereof, to compel obedience to any process of the commission and to require any witness to answer questions put to him as aforesaid, and to punish as a contempt of court any refusal to comply with the court's order unless good cause is shown therefor. False swearing by any witness before the commission shall constitute perjury and shall be punished as such.

[Sec. 155H.] **Section 9. No salary or compensation payable to person appointed in violation of Act.** No officer of the Territory of Hawaii whose duty it is so to do, shall authorize the drawing, signing or issuing of any warrant on the treasury or other disbursing agency of or for the Territory or against any funds available for such purpose for the payment of any salary or compensation to any person in the public service of the Territory whose appointment or retention has not been in accordance with this Act and the rules and regulations in force thereunder.

Any salary or wage payment paid contrary to the provisions of this Act and the rules and regulations established thereunder may be recovered from any person approving such payment or from any officer authorizing the signing or countersigning of a voucher, payroll, check or warrant for such payment in an action maintained by any taxpayer who is a citizen. All moneys recovered in any action brought under this section shall be paid into the treasury of the Territory. Any person employed or appointed contrary to the provisions of this Act and the rules established thereunder whose payroll or account is refused certification shall have an action of debt against such officer or officers employing or appointing him or attempting to employ or appoint him for the amount due by reason of such employment or purported employment and the cost of such action. No public officer or officers, during the time of his or their official service or thereafter shall be reimbursed by the territory for any sum paid or recovered in any such action.

[Sec. 155I.] Section 10. **Political activities prohibited.** No person shall be eligible for membership or be a member of the commission who occupies any elective or appointive office or position under the territorial or county governments, and no member shall, during his term of office, serve as an officer or committee member of any political party organization, or present himself as a candidate or be a candidate for nomination or election to any public office in any primary or general election. The office of any member who shall violate any of the foregoing provisions shall be conclusively presumed to have been abandoned and vacated by reason thereof, and, upon the governor so finding as a fact, in writing, he shall appoint a qualified person to fill such vacancy. The finding of the governor shall be conclusive in all actions and proceedings and upon all officers and courts.

[Sec. 155J.] Section 11. **Present employees to become members of system.** All those employees in the public service of the Territory of Hawaii who have received their appointments under the provisions of sections 907 to 913 of the Revised Laws of Hawaii 1935, or under any rules enacted thereunder, are hereby made members of the civil service system of the Territory of Hawaii and shall receive permanent appointments therein without further examinations. All those employees in the public service of the Territory of Hawaii upon the effective date of this Act, who have completed one (1) year of satisfactory service, shall become members of the civil service system of the Territory of Hawaii and shall receive permanent appointment therein without further examination. All other employees now in the public service of the Territory of Hawaii are hereby given probationary appointments in the civil service system of the Territory. All those employees in the public service of the Territory of Hawaii upon the effective date of this Act, who have been given probationary appointments under the provisions of this section, shall upon the completion of one (1) year of satisfactory service and satisfactorily passing non-competitive examinations for their respective positions, become members of the civil service system. All persons hereafter employed in the public service of the Territory of Hawaii and all promotions, demotions, and discharges hereafter made in the public service of the Territory shall only be made under the provisions of this Act and under the rules and regulations adopted by the commission pursuant to the terms of this Act, and all persons employed under the terms of this Act shall, upon satisfactory service during the probationary period, become members of the civil service system of the Territory of Hawaii.

It is provided, however, that no employee shall become a member of the civil service system unless and until he shall have been a resident of the Territory of Hawaii for not less than three years.

PART II

CIVIL SERVICE FOR THE CITY AND COUNTY OF HONOLULU

[Sec. 155K.] Section 12. **Civil service commission.** There is hereby established a civil service commission for the city and county of Honolulu consisting of three members who shall be of good repute and standing in the community who shall be appointed by the Mayor of said city and county with the approval of the board of supervisors of said city and county, who shall hold office for six years, or until their successors are appointed and qualified; provided, however, that of the first members appointed under the provisions of this Act, one shall be appointed for a term expiring January 1, 1941, one for a term expiring January 1, 1943, and one for a term expiring January 1, 1945. The commission shall annually elect from its membership a chairman. Appointments to fill any vacancy caused by the death, resignation or inability to act of any commissioner shall be made for the unexpired term of such commissioner. A commissioner may after due notice and public hearing be removed by the mayor because of conviction of any felony or misdemeanor involving moral turpitude, neglect of duty or malfeasance in office, but for no other cause. All commissioners must, during their term of office, be bona fide residents of the city and county of Honolulu. Not more than two members of the commission shall belong to any one political party. The commission shall make annual reports to the mayor not later than the 15th of February of each year.

[Sec. 155L.] Section 13. **Appointments and promotions; positions excepted from the provisions of this Act.** As used in this subtitle, "position" includes both an office and an employment other than an office, and "commission" means the civil service commission created by this subtitle. All appointments, promotions and changes in status of the persons employed in the public service of the city and county of Honolulu, or whose compensation is paid from city and county funds, shall be made in the manner prescribed by this Act and in accordance with the rules and regulations adopted by the commission in the manner hereinbefore set forth; provided, however, that this Act shall not apply to:

- (a) Administrative assistant to the mayor, if any, and private secretary to the mayor;
- (b) Positions filled by persons employed by contract to render a special temporary service for the city and county where such contract is certified by the commission to be for a service which from its nature can better be performed by other than a civil service employee;
- (c) Officers elected by public vote;
- (d) Members of any board, commission or other city and county agency and heads of departments and one first deputy or one first assistant of a head of a department whose appointments are required under the laws of the Territory of Hawaii or ordinances of the city and county to be made by the mayor and confirmed by the board of supervisors of the city and county of Honolulu;

- (e) Chief of Police;
- (f) Manager, Board of Water Supply;
- (g) District Magistrates;
- (h) One clerk for each judge of a court of record;
- (i) Institutional inmate or patient employees or help in city and county institutions;
- (j) Deputies city and county attorneys, assistant or deputies public prosecutors.

[Sec. 155M.] Section 14. **Certain employees members of system.** All those officers and employees in the public service of the city and county of Honolulu who have received their appointments under the provisions of sections 3160 to 3166 of the Revised Laws of Hawaii 1935, or under any rules enacted thereunder, are hereby made members of the civil service system of the city and county of Honolulu and shall receive permanent appointments therein without further examination.

[Sec. 155N.] Section 15. **Provisions of previous sections applicable.** All of the provisions of sections 3 and 4 and of sections 6 to 11 inclusive, of this Act not by their terms inapplicable shall apply with equal force to the civil service commission and the civil service system of the city and county of Honolulu as the same shall apply to the Territory of Hawaii, and for the purpose of Part II of this Act, for the purpose of this section, the term "Territory of Hawaii" or "Territory" whenever it appears in said sections, shall include and mean the city and county of Honolulu; the term "governor" shall mean the mayor of the city and county of Honolulu, and the term "legislature" shall mean the board of supervisors of said city and county. Provided that publications required by section 6 as incorporated in Part II of this Act shall be made in a newspaper published in the city and county of Honolulu, and that the rules and regulations of the territorial civil service commission restricting political activities by employees shall apply uniformly to city and county employees.

PART III

CIVIL SERVICE IN THE COUNTIES OF HAWAII, KAUAI AND MAUI.

[Sec. 155O.] Section 16. **Civil service commission.** There is hereby established a civil service commission for the County of Hawaii, a civil service commission for the County of Kauai, and a civil service commission for the County of Maui. Each of said commissions shall consist of three members who shall serve for a term of six (6) years and who shall be of good repute and standing in the community and who shall be appointed by the chairmen of the respective boards of supervisors of said counties, with the approval of said boards; provided, however, that of the first commission appointed for each County one member shall be appointed for a term expiring January 1, 1941, one for a term expiring January 1, 1943, and one for a term expiring January 1, 1945. A commissioner may, after due notice and public hearing, be removed by the chairman of the board of supervisors of the county in which such commissioner is serving because of

conviction of any felony or misdemeanor involving moral turpitude, neglect of duty or malfeasance in office but for no other cause. The appointment to fill any vacancy in the office of commissioner caused by death, resignation, inability to serve or removal of any commissioner, shall be for the unexpired term of such commissioner. Not more than two members of the commission shall belong to one political party. All commissioners must, during their terms of office, be bona fide residents of their respective counties. The commission shall annually elect from its membership a chairman. The commission of each county shall make an annual report to the chairman of the board of supervisors of such county not later than the 15th of February of each year.

[Sec. 155P.] Section 17. **Appointments and promotions; positions excepted.** As used in this subtitle, "position" includes both an office and an employment other than an office and "commission" means the civil service commission created by this subtitle. All appointments, promotions and changes in status of the persons employed in the public service of the county of Hawaii, county of Kauai, or county of Maui, or whose compensation is paid from the funds of such county, shall be made in the manner prescribed by this Act and in accordance with the rules and regulations adopted by the civil service commission for such county; provided, however, that this Act shall not apply to the following:

- (a) Private secretary for the chairman of the board of supervisors;
- (b) Positions filled by persons employed by contract to render a special temporary service for the county where such contract is certified by the commission to be for a service which from its nature can better be rendered by other than a civil service employee;
- (c) Officers elected by public vote;
- (d) Board or commission members or heads of departments and one first deputy or one first assistant of a head of a department whose appointments are required under the laws of the Territory of Hawaii or by county ordinances to be made by the chairman of the board of supervisors and confirmed by the board of supervisors of the county;
- (e) Chief of police;
- (f) District magistrates;
- (g) One clerk for each judge of a court of record;
- (h) Institutional inmate or patient employees or help in county institutions;
- (i) Deputies county attorneys;
- (j) Members of police department of the County of Kauai;
- (k) Deputy sheriffs of the County of Hawaii;
- (l) Members of police departments of the counties of Maui and Hawaii prior to July 1, 1940.

[Sec. 155Q.] Section 18. **Provisions of previous sections applicable.** All of the provisions of sections 3 and 4 and of sections 6 to 11 in-

clusive, of Part I of this Act shall, unless by their terms expressly inapplicable, apply to each of the counties mentioned in Part III and for the purposes of this section the term "Territory of Hawaii" or "Territory" as used in Part I, shall in such event mean and include as the case may be, the county of Hawaii, county of Kauai and county of Maui; the term "governor" shall mean the chairman of the board of supervisors of each county and the term "legislature" shall mean the board of supervisors of each county; provided, however, that publications required by section 6 as incorporated in Part III of this Act shall be made in a newspaper published in the county concerned, and that all rules and regulations of the territorial civil service commission restricting political activities by employees shall apply uniformly to the employees of all such counties.

PART IV

CERTAIN ACTIONS UNLAWFUL

[Sec. 155R.] Section 19. (a) No recommendation of any person who shall apply for examination or appointment to any office or position under the provisions of this Act which may be given by an elected officer of the Territory of Hawaii or any political subdivision thereof, except as to the ability or character of the applicant, shall be received or considered by any person concerned in the making of any examination or appointment under this Act.

(b) It shall be unlawful for any candidate for election to any public office or for any officer or employee of the Territory of Hawaii or of any political subdivision thereof to directly or indirectly solicit, assess or be in any manner concerned in soliciting any contribution or making any assessment for any political purpose whatever from any member of any civil service system created under this Act.

(c) No person shall, in any room or building occupied in the discharge of official duties by any officer or employee of the Territory of Hawaii or of any political subdivision thereof, solicit in any manner whatever or receive any contribution or money or other things of value from any such officer or employee for any political purpose whatever.

(d) No officer or employee of the Territory of Hawaii or of any political subdivision thereof shall discharge, promote or demote or in any manner change the official rank or compensation of any other such officer or employee or promise or threaten so to do for giving or withholding or neglecting to make any contribution of money or other things of value for any political purpose whatever.

(e) No officer or employee of the Territory of Hawaii or of any political subdivision thereof shall directly or indirectly hand over to any other such officer or employee any money or other things of value on account of or to be applied to the promotion of any political object whatever.

(f) No officer or employee of the Territory of Hawaii or of any political subdivision thereof shall discharge, promote or demote or in any manner change the official status or compensation of any other such officer or employee because of the political or religious actions or beliefs or for the failure of any other such officer or employee to take any political action for any political purpose whatever or to advo-

cate or fail to advocate the candidacy of any person seeking an elective office.

(g) Any person who shall be guilty of violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor and upon a conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year or by both such fine and imprisonment.

PART V

EMPLOYEE ORGANIZATIONS AND VETERANS PREFERENCE

[Sec. 155S.] Section 20. (a) Membership in any association or other organization of public employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, by any person in the civil service, or the presenting by any such person or groups of persons of any grievance or proposal to the Legislature or any public officer or body shall not constitute or be cause for reduction in rank or compensation or removal from said service. The right of persons employed in the civil service of the Territory or any political subdivision thereof, either individually or collectively, to petition the Legislature, or any member thereof, or to furnish information to either House of the Legislature or to any Committee or member thereof, shall not be denied or interfered with. Further, no person in said service shall be required as a condition of employment or promotion to be a member of any association or organization.

(b) In each original and open competitive examination, but not in any promotional examination, entry to which is confined to persons already employed in the particular civil service system, given pursuant to this Act, a credit of five percent of the total credits specified for such examination shall be given to each candidate who has served during any period when the United States was at war, in any branch of the United States military or naval establishment and been honorably terminated therefrom or honorably discharged from active service and placed in reserve; provided, however, that such credit shall not be given to any candidate who does not otherwise receive sufficient credits in the particular examination to qualify for a place on the list of eligibles.

PART VI

REPEAL OF CERTAIN SECTIONS

[Sec. 155T.] Section 21. Sections 907 to 913 inclusive and Sections 3160 to 3166 inclusive, of the Revised Laws of Hawaii 1935 are hereby repealed, and all provisions of law inconsistent with the provisions of this Act are superseded by the provisions hereof to the extent of such inconsistency.

PART VII

APPROPRIATION

[Sec. 155U.] Section 22. There is hereby appropriated from the general fund of the Territory of Hawaii for the period ending June 30, 1941, the sum of \$30,000.00 for the expenses of the civil service commission for the Territory of Hawaii as provided for in Part I of this Act.

CIVIL SERVICE LAW.
AGRICULTURE AND FORESTRY.

[SERIES A-8.—ACT 187.
[SERIES A-9.—ACT 240.]

PART VIII

[Sec. 155V.] Section 23. **Services to political subdivision.** Subject to the rules of the Territorial Commission, the director of personnel may enter into agreements with any political subdivision of the Territory to furnish services and facilities of the Territorial Commission to such political subdivision in the administration of its civil service system. Any such agreement shall provide for the reimbursement to the Territory of the reasonable cost of the services and facilities furnished, as determined by the director of personnel. All political subdivisions of the Territory are hereby authorized to enter into such agreements.

PART IX

EFFECTIVE DATE

[Sec. 155W.] Section 24. This Act shall take effect upon July 1, 1939; provided, however, that the members of the respective civil service commissions herein created may be appointed prior to said date; and provided, further, that the several directors of personnel may be appointed by the various civil service commissions, or any of them, prior to said date.

(Approved May 6, 1939.) **H.B. 2, ACT 187.**

Title II. AGRICULTURE AND FORESTRY.

CHAPTER 7. AGRICULTURE AND FORESTRY, BOARD OF.

PLANTS, FRUITS, SOILS, ETC.

[A-9] An Act to Amend Section 197 of the Revised Laws of Hawaii 1935, Relating to the Importation of Sand, Soil or Earth.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subparagraph 4 of section 197 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"4. Plant products with sand, soil or earth around or adhering thereto, except for experimental or scientific purposes under the auspices of the board and except when the same are brought to the Territory from the mainland of the United States under conditions prescribed by rule or regulation of the board.

Any sand, soil or earth, or rocks with sand, soil or earth adhering thereto, or sand, soil or earth around the roots of plants, or sand, soil or earth around or adhering to plant products, which may be brought to the Territory contrary to the provisions of this section, shall be refused admittance thereto, and the same may, in the discretion of the board or its duly authorized agent, be seized and fumigated, disinfected, destroyed or excluded at the expense of the owner or his responsible agent."

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1939.) **S.B. 313, ACT 240.**

BOVINE TUBERCULOSIS.

SERIES A-10.—ACT 111.]

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BOVINE TUBERCULOSIS.

[A-10] An Act to Amend Sections 222 and 224 of the Revised Laws of Hawaii 1935, Relating to Tubercular Cattle.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 222 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec. 222. Dairy cattle; tuberculin tests.** All dairy cattle within the Territory of Hawaii shall be tuberculin tested by the territorial veterinarian, his assistant or deputy, as often as in their judgment such testing is necessary in order to prevent, suppress and eradicate bovine tuberculosis; all cattle so tested shall be marked by said veterinarian, or said assistant or deputy, with some distinguishing mark; and said veterinarian, and his duly authorized agents, may, for the purpose of making such tests, go upon any property where such cattle are kept. If, upon making such tests, it is determined that any cattle of any herd show tubercular reaction, said veterinarian and/or his assistants may declare the region upon which said cattle are found to be a quarantine zone, and no cattle shall be permitted to leave such region except for shipment to a slaughterhouse, there to be disposed of as provided by law; provided, however, that in the event the owner or owners of such cattle can show to the satisfaction of said veterinarian that they have under their control an area of land, or a paddock, wherein the tubercular cattle can be properly isolated, then said veterinarian may place a quarantine only upon said area where such cattle shall be isolated, such quarantine to last for such period of time as may, under the circumstances in a particular case, be deemed, by the board of commissioners of agriculture and forestry, necessary.

At any time before the end of the quarantine period declared by said veterinarian, the owner or owners of such cattle may apply to the board of commissioners of agriculture and forestry to have such quarantine lifted, and said board is authorized, after a test showing a negative reaction to bovine tuberculosis by said herd, to declare such quarantine lifted from the premises of such applicants.

Whenever any tubercular cattle are found in any slaughterhouse in the territory, the veterinarian and/or his assistants may go upon the ranch of the origin of such cattle and, after making such tuberculin test of the cattle as the case shall warrant, shall place such region under quarantine, as hereinabove provided; and any owner of tubercular cattle sending such cattle to a slaughterhouse shall keep a record, which shall be available to the veterinarian and his agents, of all such tubercular cattle so shipped to slaughterhouses, and where shipped; and the owners or operators of said slaughterhouses shall also keep a record of all tubercular cattle received, stating their place of origin and time of receiving same, which said records shall be at all times available to the veterinarian and his agents.

Any person violating the provisions of this title shall be deemed guilty of committing a misdemeanor, and upon conviction therefor shall be liable to imprisonment for any period not over six months, or to a fine not over two hundred dollars (\$200.00)." [L. 1923, c. 124, s. 1; am. L. 1925, c. 5, s. 1; am. L. 1932, 2d., c. 39, s. 1; am. L. 1933, c. 57, s. 1; R. L. 1935, s. 222; am. L. 1939, c. 111, s. 1.]

Section 2. Section 224 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

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[SERIES A-10.—Act 111.
[SERIES A-11.—Act 200.]

"Sec. 224. Disposal of tuberculous animals. The owner of all cattle reacting to the tuberculin test shall, subject to the provisions of section 222, cause them to be segregated immediately and, within a reasonable time thereafter, to be delivered for slaughter at such time and place as may be designated by the territorial veterinarian, his assistant or deputy. Such slaughter shall be under the direct supervision of the territorial veterinarian, his assistant or deputy, and in accordance with the meat inspection regulations of the federal bureau of animal industry." [L. 1923, c. 134, s. 3; am. L. 1927, c. 215, s. 1; R. L. 1935, s. 224; am. L. 1939, c. 111, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Became effective April 27, 1939, without the Governor's signature.)
H.B. 272, Act 111.

CHAPTER 12. PROTECTION OF ANIMAL, FISH AND PLANT LIFE.

LIMU.

[A-11] An Act to Prohibit the Taking of Seaweed, or Limu, By Non-Citizens.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 415.] Section 1. [Taking of limu by non-citizens unlawful; exceptions.] It shall be unlawful for any person not a citizen of the United States to take, except for home consumption and medicinal purposes, seaweed, locally known as limu, from any area in the Territory between the beach at low water mark and the reefs, and where there happen to be no reefs, between the beach at low water mark and points one geographical mile seaward.

[Sec. 416.] Section 2. [Penalty.] Any person violating the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not more than one hundred dollars, or by imprisonment of not more than thirty days, or by both such fine and imprisonment.

Section 3. This Act shall take effect upon its approval. .

(Approved May 10, 1939.) **S.B. 259, Act 200.**

Title IV. AUDIT OF PUBLIC ACCOUNTS.

CHAPTER 18. BUDGET BUREAU.

[A-12] An Act Relating to the Budget of the Territory of Hawaii and Providing for Improvements in the Preparation, Form and Manner of its Presentation for Purposes of Securing Greater Economy and Effectiveness in the Conduct of the Territory's Government.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 18 of the Revised Laws of Hawaii 1935, is hereby amended:

(a) By amending section 631 thereof to read as follows:

"Sec. 631. Investigations of departments and establishments. The director shall have the power and it shall be his duty to investigate continuously the administration of the various departments and establishments for the purpose of advising the governor and recommending to the governor and committees of the legislature concerning the duties of the various positions in said departments, the methods of said departments, the standards of efficiency therein, and such changes as in his judgment will produce greater economy and effectiveness in the conduct of the government and assist in the preparation of the budget and appropriation acts." [L. 1925, c. 56, s. 8; R. L. 1935, s. 631; am. L. 1939, c. 134, pt. of s. 1.]

(b) By amending section 632 thereof to read as follows:

"Sec. 632. Information for governor and legislature. The director shall keep the governor advised concerning findings of investigations of departments and particularly the fiscal operations of the entire government. Any member or committee of either House of the legislature shall be furnished by the director with such information concerning the government as may be requested in writing." [L. 1925, c. 56, c. 9; R. L. 1935, s. 632; am. L. 1939, c. 134, pt. of s. 1.]

(c) By amending section 634 thereof to read as follows:

"Sec. 634. Departmental estimates. At such time as the governor may prescribe, but not later than November 15 preceding each biennial session of the legislature, each board or officer at the head of any department other than those departments specifically given control of their own special funds, shall submit to the director on forms and in the manner prescribed by the director, a detailed estimate of the money required for the next ensuing biennium for the proper conduct of the departments under their respective control. The classification of these estimates shall be as nearly uniform as possible and shall exhibit clearly the functions performed by each department and the objects and services which it is estimated will be required to carry on the several functions. With the estimates shall be submitted such summaries, schedules and supporting data as may be prescribed by the director. Any department head, whose estimate provides for increases over the appropriation of the previous biennium for his department, shall indicate, under appropriate classifications, the order of the immediate importance of such increases. After con-

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[SERIES A-12.—ACT 134.]

sultation with the head of a department, the director may refer the estimate of such department head back to him with instructions to prepare a revised estimate on the basis of a maximum sum for the department, such maximum sum being fixed by the governor. Said head of a department shall present such revised estimate to the director on or before such date as may be prescribed by the director. In the event of failure to receive estimates from any department heads by the prescribed dates, the director shall prepare such estimates and data as are necessary to enable the governor to include estimates and statements in respect to the work of such departments in the budget.

On or before November 15 preceding each biennial session of the legislature, there shall be submitted to the director by the territorial treasurer a detailed statement of the money which he estimates will be required for the interest and sinking funds and for all outstanding bonded indebtedness of the government. Also, on or before such time, the territorial auditor shall submit to the director an estimate of the receipts to be derived from all sources other than taxes; and likewise the territorial tax commissioner shall submit an estimate of tax collections under the existing laws." [L. 1925, c. 56, s. 11; R. L. 1935, s. 634; am. L. 1939, c. 134, pt. of s. 1.]

(d) By inserting in section 636 thereof, as amended by Act 115, series A-21, of the Session Laws of Hawaii 1937, immediately after the word "last" in the 13th and 20th lines on page 24 of the Session Laws, the word "three"; and inserting immediately before the word "such" in line 26, the words "balanced summaries of proposed receipts and expenditures, summaries arranged according to departments showing number of employees and proposed amounts of appropriations for items of salaries, expense, equipment, capital outlay and special purposes, together with"; and adding a new paragraph to said section, to read as follows:

"Said budget shall contain an item to be known as the 'contingency fund' which sum shall be available for allocation in the ensuing biennium to meet contingencies as they arise. The budget shall be printed, with a reasonable number of copies for public distribution. Said budget shall cover all funds and moneys coming under the control or administration of the governor or received in the territorial treasury and expended on territorial warrants; provided, however, that the detailed departmental budgets of departments specifically given control of their own special funds shall be printed with and appended to the said budget. The said budget shall be arranged alphabetically by departments and shall contain, in addition to items and statements mentioned above, a functional statement of proposed appropriations, a statement of bonded indebtedness as of December 31 next preceding the ensuing and the previous four regular sessions of the legislature, and a budget summary classified according to funds and showing amounts and percentages of total receipts from all sources and total proposed expenditures for all purposes, and a consolidated fund statement arranged according to departments. All items of receipts, proposed and past expenditures in said budget shall be shown to the nearest dollar, omitting cents."

(e) By inserting in section 637 thereof, immediately after the word "transmit" in the 7th line, the words "and made a part of."

Section 2. This Act shall take effect as of July 1, 1939.

(Approved May 1, 1939.) **H.B. 248, ACT 134.**

Title V.**EDUCATION.****CHAPTER 19. ADMINISTRATION
AND DEPARTMENT OF PUBLIC INSTRUCTION.****PUPILS; ATTENDANCE; PUNISHMENT.**

[A-13] An Act to Amend Section 745 of the Revised Laws of Hawaii 1935, Relating to Compulsory School Attendance.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 745 of the Revised Laws of Hawaii 1935, as amended by Act 190 (Series A-25) of the Session Laws of Hawaii 1937, is hereby amended in the following respects:

(a) by amending the first paragraph thereof to read as follows:

"**Sec. 745. Attendance compulsory; exceptions.** The attendance, at either a public or a private school, of all children who will have arrived at the age of at least six years, and who will not have arrived at the age of sixteen years, on or before December 31 of any school year, is obligatory for and during such school year, and it shall be incumbent upon any parent, guardian and other person having the responsibility for or care of a child whose attendance at school is obligatory to send the child to some such school; provided, that such attendance shall not be compulsory in the following cases:”

(b) by amending paragraph numbered 11 thereof to be read as follows:

"11. Where a child, prior to September 1, 1939, has left school by reason of having attained the age of fifteen years."

(c) by adding paragraph numbered 12 thereto, to read as follows:

"12. Where any child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department or its authorized agents, the juvenile court or the district magistrate."

Section 2. This Act shall take effect on September 1, 1939.

(Approved April 19, 1939.) **S.B. 24, ACT 62.**

SCHOOL BUSSES, REGULATION OF.

[A-14] An Act Providing for the Regulation of School Busses.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 760.] Section 1. **Words defined.** As used in this Act, "school bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.

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[SERIES A-14.—ACT 158.
[SERIES A-15.—ACT 160.]

[Sec. 761.] Section 2. **Regulations relative to school busses.**

(a) The commissioners of public instruction shall adopt and enforce regulations to govern the design and operation of all school busses used for the transportation of school children when owned and operated by any county or privately owned and operated under contract with any county in the Territory of Hawaii and such regulations shall, by reference, be made a part of any such contract with a county. Every county, its officers and employees, and every person employed under contract by a county, shall be subject to said regulations.

(b) Any officer or employee of any county who violates any of said regulations or fails to include obligation to comply with said regulations in any contract executed by him on behalf of a county, shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a county, who fails to comply with any of said regulations, shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such county.

[Sec. 762.] Section 3. **Penalties for misdemeanor.** Every person convicted of a misdemeanor for a violation of any of the provisions of this Act for which another penalty is not provided, shall, upon conviction, be punished by a fine of not more than \$100.00 or by imprisonment for not more than 10 days, or by both such fine and imprisonment.

Section 4. This Act shall take effect September 1, 1939.

(Approved May 3, 1939.) **H.B. 320, ACT 158.**

**CHAPTER 20. MAINTENANCE OF
PUBLIC SCHOOLS.**

[A-15] An Act Repealing Act 77 of the Session Laws of Hawaii 1935 and a Portion of Act 232 of the Session Laws of Hawaii 1925, Relating to the Salaries of High School Principals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 232 of the Session Laws of Hawaii 1925, insofar as it fixes the salaries of high school principals, and Act 77 of the Session Laws of Hawaii 1935, are hereby repealed.

[Sec. 770B.] Section 2. [Salaries of high school principals.] The monthly salaries of high school principals shall be in accordance with the following schedule:

<u>SCHOOL</u>	<u>YEARS OF SERVICE</u>			
	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th and subsequent</u>
McKinley	\$ 325	350	375	400
Hilo, Roosevelt and Farrington.....	300	325	350	375
All others	250	275	300	325

Section 3. This Act shall take effect September 1, 1939.

(Approved May 3, 1939.) **H.B. 507, ACT 160.**

CHAPTER 21. AGRICULTURE, INDUSTRIAL, VOCATIONAL TRAINING.

LICENSING OF PRIVATE SCHOOLS.

[A-16] An Act Relating to the Licensing of Private Trade, Vocational or Technical Schools.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 792A.] Section 1. [License required for private trade, vocational or technical school.] No private trade, vocational or technical school shall be operated by any person or persons, firm or any other private organization or corporation for the purpose of teaching any trade, occupation or vocation unless there is first secured from the department of public instruction a license issued in accordance with the provisions of this Act and in such form as the department of public instruction may direct.

The department of public instruction may suspend or revoke said license at any time when, in the judgment of the department of public instruction, such licensee is not complying with the provisions of this law or the rules and regulations which may be adopted by the commissioners of public instruction. When the department of public instruction has sufficient evidence to warrant the suspension or revocation of any license, notice shall be served personally or sent to the licensee by registered mail at his last known address, citing him to appear and show cause why such license should not be suspended or revoked. Such citation or notice shall contain the substance of the reasons why it is proposed to suspend or revoke such license. The licensee shall be entitled to a hearing on the same.

Notice of suspension or revocation shall be served personally upon the licensee or sent to him by registered mail, and it shall be the duty of such licensee to forward his license at once to the department of public instruction, and to cease at once to operate such private trade, vocational or technical school.

A private trade, vocational or technical school, as contemplated by this Act shall be any plan or method used by said person or persons, firm, organization or corporation for giving instruction in any form or manner in any trade, occupation or vocation for a consideration, reward or promise of whatever nature, except schools or education or training programs conducted by firms or organizations for their own employees without profit.

[Sec. 792B.] Section 2. [Powers of Department.] No license shall be issued under the provisions of this Act until the department of public instruction has approved the method and content of the advertising, the standards and the methods of instruction, and the equipment provided. The department of public instruction is hereby empowered to consult with trade or vocational experts as to the equipment provided and the standards and methods of instruction offered. The department of public instruction may adopt reasonable rules and regulations relating to the enforcement of the provisions of this Act.

[Sec. 792C.] Section 3. [Penalty.] Any person or persons, firm or corporation which shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not to exceed one hundred dollars or by im-

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[SERIES A-16.—ACT 225.

[SERIES A-17.—ACT 127.]

prisonment for a period not to exceed ninety days, or both, in the discretion of the court.

Section 4. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 511, ACT 225.**

**CHAPTER 22. LIBRARY OF HAWAII:
COUNTY LIBRARIES.**

LIBRARY OF HAWAII.

[A-17] An Act to Amend Section 802 of the Revised Laws of Hawaii 1935, Relating to the Powers of the Trustees of the Library of Hawaii by adding Thereto the Power to Accept and Use Donations for Purposes of the Library of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 802 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 802. **Powers of trustees.** The board shall have the power to make such arrangements or contracts as shall be approved by the governor, with any county, city, association, society, person or persons, for the purpose of benefiting the library and increasing its facilities and use; to enter into such arrangement or contract as shall be approved by the governor, with the Honolulu Library and Reading Rooms Association and the Hawaiian Historical Society, respectively, for the purpose of obtaining for the Library of Hawaii the use of the books and property and income of said association and said society, respectively; to cooperate by exchange and otherwise with libraries now existing or hereafter to be formed; to receive, use, manage, or invest moneys or other property, real, personal, or mixed which may be given, bequeathed, devised or in any manner received from sources other than the legislature or any federal appropriation for any or all purposes of the Library of Hawaii; to deposit with the treasurer of the Territory in a special fund to be known as 'Special Fund Library of Hawaii', all moneys donated to the Library of Hawaii or to the trustees thereof; unless otherwise provided for by the terms and conditions of the donation, to convert, at such time or times as the trustees may at their sole discretion determine, any or all donations of property, real, personal, or mixed, into money to be deposited into said special fund; to expend the moneys in said special fund in accordance with the terms and conditions of each donation for the purposes of the Library of Hawaii. The trustees of the Library of Hawaii shall be the trustees of said special fund and all moneys therein shall be deemed to have been appropriated to the use and for the purposes of the Library of Hawaii. Nothing in this section contained shall be construed to limit the powers and duties of the board hereinbefore expressed, or to empower the board to obligate the Territory financially in any sum which shall not have been appropriated by the legislature for the use of the Library of Hawaii." [L. 1909, c. 83, s. 3; R. L. 1935, s. 802; am. L. 1939, c. 127, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **S.B. 306, ACT 127.**

Title VI. PUBLIC HEALTH.

CHAPTER 24. BOARD OF HEALTH.

[A-18] An Act Amending Chapter 24 of the Revised Laws of Hawaii 1935, Relating to the Board of Health, by Adding Two New Sections Thereto to be Known as Section 900-H and Section 900-I, Empowering the Board of Health to Regulate, Supervise and Control Waters Within the Territory of Hawaii, Drainage, Water Supplies, Water Systems and Plants, Sewage Outfall Areas, Sewage Systems and Plants and Sewage and Refuse Disposal, and to Promulgate and Enforce Rules and Regulations therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 24 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new section to be numbered section 900-H and to read as follows:

"Sec. 900-H. Sanitation. To the extent and insofar as their sanitary or physical condition affect or may affect the public health, safety or welfare, and except as may be otherwise provided by the Organic Act, the board of health of the Territory of Hawaii shall have the power to regulate, supervise and control all waters within the Territory, drainage, drainage waters, drainage ditches and systems, water supplies, water systems or plants, sewage outfall areas, sewage or refuse systems or plants, sewage or refuse disposal, or the disposal of any sewage, garbage, feculent matter, offal, filth, refuse or any animal, mineral or vegetable matter or substance, offensive, injurious or dangerous to health.

No person, firm, corporation, public utility, county or city and county or other public body or commission or board shall establish, extend, or alter any system of drainage, sewage or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of oceanographical currents depended upon for dilution until it shall have the same approved in writing by the board of health. For the proper exercise and execution of the foregoing powers the board of health may consult with and advise any such owner or applicant, having or proposing to have or to alter or to extend any water supply, drainage or sewage system or plant to the end that the health, safety and welfare of the public would be protected; it may also consult with and advise any person, firm, corporation, public utility or other public body, commission or board engaged in or intending to be engaged in any business or undertaking whose sewage or drainage may tend to pollute water or whose operations may in any way affect the health, safety or welfare of the public; it may conduct such experiments or make such investigations as it may deem necessary to the proper determination of the purity and potability of water and for the prevention of the pollution of the same, or to effect the proper disposal of sewage, drainage and waste; it may require a complete and detailed plan, description and history of the existing works, system or plant and of any proposed addition to, modification or alteration of any such works, system or plant, which plan shall be in such form and contain such information as the board may prescribe and shall be furnished at the cost and expense of such owner or applicant; it may also require a report, in such form and containing such information as the board may prescribe, on the

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[SERIES A-18.—ACT 103.
[SERIES A-19.—ACT 136.

condition and operation of such works, system or plant, which report shall be made by some competent person acceptable to the board and at the expense of such owner or applicant, provided, however, that the provisions of this section shall not be deemed to apply to or affect any person, firm, corporation, public utility, county or city and county or other public body or commission or board engaged strictly in the production and distribution of domestic water in the establishing, operation, extension, modification or alteration of any water system or water plant for which there is regularly employed a sanitary engineer duly licensed under the provisions of chapter 231 of the Revised Laws of Hawaii 1935."

Section 2. Chapter 24 of the Revised Laws of Hawaii 1935 is hereby further amended by adding thereto a new section to be numbered section 900-I and to read as follows:

"**Sec. 900-I. Rules and regulations; enforcement.** The board of health shall have the power, subject to the approval of the governor, to adopt, promulgate and enforce rules and regulations for the execution of its powers and duties under section 900-H of this chapter."

Section 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision, to other persons or circumstances shall not be affected thereby.

Section 4. This Act shall take effect upon its approval.

(Approved April 26, 1939.) **S.B. 171, ACT 103.**

[A-19] An Act to Amend Section 905 of the Revised Laws of Hawaii 1935, Prescribing the Publication of Rules and Regulations of the Board of Health, and Validating Prior Rules and Regulations Made by Said Board.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 905 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 905. Publication; validation of existing rules and regulations.** All rules and regulations made by the board shall be published in a newspaper of general circulation in the Territory and, upon such publication, shall constitute legal notice thereof to all persons and shall have the force and effect of law. All rules and regulations heretofore made by the board of health, which, had the provisions of this section been in effect at that time, would have been valid, are hereby approved, ratified and confirmed. This Act shall not invalidate any rule or regulation made prior to the effective date of this Act which, under the general law then in effect, would otherwise be valid." [P. C. 1869, c. 59, s. 7; R. L. 1935, s. 905; am. L. 1939, c. 136, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **S.B. 260, ACT 136.**

CHAPTER 27. CHIROPRACTIC.

[A-20] An Act to Amend Sections 960 and 970 of the Revised Laws of Hawaii 1935, Relating, Respectively, to Licenses to Practice Chiropractic and to Chiropractors' Certificates of Health, Disability and Death.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 960 of the Revised Laws of Hawaii 1935 is hereby amended by amending that portion thereof comprising lines 7 to 14 inclusive to read as follows:

"Except in the cases herein otherwise prescribed, each applicant shall have resided within the Territory of Hawaii for a period of one year at some time prior to the date of making application, and shall be a graduate of an incorporated chiropractic school or college which teaches a course of not less than thirty-six hundred, fifty-minute hours, of which six hundred hours shall have been spent in practical work in a chiropractic college clinic under recognized instructors. The course shall extend over a period of four school terms of at least eight months each, and the applicant must give satisfactory proof of having attended not less than ninety percent of said thirty six hundred hours, and have".

Section 2. Section 970 of said Revised Laws is hereby amended to read as follows:

"Sec. 970. [Licensees, duties.] Chiropractic licensees shall observe and be subject to all territorial and municipal regulations relating to all matters pertaining to public health and shall execute all necessary death certificates, and may execute disability and health certificates so long as the same are confined to physical conditions and ailments which they are by law authorized to treat, which certificates shall be accepted by all officials, authorities and boards operating within the Territory who are officially concerned with the matters or subject covered by said certificates." [L. 1925, c. 99, s. 12; R. L. 1935, s. 970; am. L. 1939, c. 186, s. 2]

Section 3. This Act shall take effect upon its approval, provided, that any person whose application for examination had been filed with the territorial board of chiropractic examiners prior to the date of such approval and who was qualified to take such examination under the provisions of chapter 27 prior to its amendment by this Act shall be entitled to be examined and, if passed, to be licensed, in the same manner as if this Act had not been enacted.

(Approved May 6, 1939.) **S.B. 234, Act 186.**

CHAPTER 27A. CRIPPLED CHILDREN.

[A-21] An Act Designating the Board of Health as the Territorial Agency to Administer a Program of Services In Aid of Crippled Children and Providing for Its Powers and Duties; Providing for the Transfer of Monies from the Welfare and Unemployment Relief Fund to the Bureau of Crippled Children Fund and Making Appropriation for the Purposes of This Act; Providing for the Application of This Act and Repealing or Amending Laws or Portions of Laws Inconsistent or in Conflict with This Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 974.] Section 1. **Declaration of policy.** It is hereby declared to be the public policy of the Territory of Hawaii to develop, extend and improve, especially in rural areas, services for locating children who are crippled or who are suffering from conditions which lead to crippling and to provide for medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and after-care for such children.

[Sec. 974A.] Section 2. **Board of health to administer Act.** The board of health of the Territory of Hawaii is hereby designated as the agency of the Territory to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling.

[Sec. 974B.] Section 3. **Powers, duties and activities of the board of health.** The board of health shall have, among other powers necessary to carry out the purposes of this Act, the power:

(a) to establish and administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, which shall provide for developing, extending, and improving services, especially in rural areas, for locating such children, and for providing for medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and after-care; extend and improve any such services including those in existence on the effective date of this Act; cooperate with medical, health, nursing and welfare groups and organizations and with any agency of the Territory charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; cooperate with the department of public instruction for the education of such children;

(b) to formulate and administer a detailed plan or plans for the purposes specified in sections 1 and 3 (a) and make such rules and regulations as may be necessary or desirable for the administration of such plan and the provisions of this Act. Any such plan shall include provisions for:

(1) Financial participation by the Territory of Hawaii in the funds appropriated by the Congress of the United States under Title V of the Social Security Act (49 Stat. 631-633 (1935), 42 U. S. C. Secs. 711-715);

(2) Administration of the plan by the board of health;

(3) Such methods of administration (other than those relating to selection, tenure of office and compensation of personnel) as are necessary for the efficient operation of the plan;

(4) Maintenance of records and preparation of reports of services rendered as shall be directed by the secretary of labor of the United States;

(5) Carrying out the purposes specified in sections 1 and 3 (a) of this Act;

(6) Cooperation with medical, health, nursing and welfare groups and organizations and with any agency in the Territory of Hawaii charged with administrating territorial laws providing for vocational rehabilitation of physically handicapped children;

(c) to cooperate with the federal government through its appropriate agency or instrumentality in developing, extending and improving such services and receive and expend all funds made available to the board of health by the federal government, the Territory of Hawaii, or its political subdivisions, or from any other sources, including private donations, for such purposes.

[Sec. 974C.] **Section 4. Organization.** The board of health shall create and maintain a bureau to be known as the Bureau of Crippled Children. The territorial commissioner of public health, with the consent of said board, shall appoint a director of the bureau. The territorial commissioner of public health and the director shall have the immediate control and management of the bureau of crippled children subject to the supervision, control, management and jurisdiction of the said board. The territorial commissioner of public health is authorized to appoint or employ, with the approval of the said board, all personnel, including specialists in all fields or classifications, as are necessary to carry out the purposes of this Act. With the exception of specialists, all appointees or employees shall be subject to sections 907 to 913 of the Revised Laws of Hawaii 1935, and section 5 of Act 122 (Series A-32) Session Laws of Hawaii 1937. The salaries or compensation of all appointees or employees shall be fixed by the board.

[Sec. 974D.] **Section 5. Transfer of funds and appropriation.** To carry out the purposes of this Act, the governor shall cause to be transferred, and the treasurer of the Territory is hereby directed to transfer, each year of the biennium 1939-1941 to a special fund hereby created and to be known as "Bureau of Crippled Children Fund" the sum of twenty-five thousand dollars (\$25,000.00) which, by section 51 of Act 242 (Series D-164), Session Laws of Hawaii 1937, may be allocated by the governor out of any surplus in the "Welfare and Unemployment Relief Fund" for aid to crippled children. If, in either year of said biennium the surplus in the welfare and unemployment relief fund be insufficient to cover the sum of \$25,000.00, there is hereby appropriated from the general fund in the treasury of the Territory of Hawaii not otherwise appropriated, a sum sufficient to meet the deficiency for such year; or if, in either year of said biennium there be no surplus in said fund, there is hereby appropriated from the general fund in the treasury of the Territory of Hawaii, not otherwise appropriated, the sum of \$25,000.00 for such year.

The \$25,000.00 herein provided for shall match the allotment of funds to the Territory of Hawaii by the federal government under Title V of the Social Security Act (49 Stat. 631-633 (1935), 42 U.S.C. Secs. 711-715).

The treasurer of the Territory of Hawaii shall be the custodian of all moneys appropriated for or received by the board of health from

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any sources whatsoever for the purposes of this Act and shall deposit such moneys in the bureau of crippled children fund.

[Sec. 974E.] Section 6. **Expenditure.** All expenditures and withdrawals from the bureau of crippled children fund shall be upon warrants issued by the auditor of the Territory upon vouchers properly approved by the territorial commissioner of public health.

[Sec. 974F.] Section 7. **Application of Act.** The services provided by this Act shall be for the benefit of and apply only to persons not over 21 years of age, who or whose estate, or whose parents or guardians are without sufficient means to pay for such services. The board of health shall have the final administrative authority in determining the acceptance of cases for the care and services provided in this Act.

[Sec. 974G.] Section 8. **Repeal or amendment of inconsistent or conflicting laws.** Any law or portions of law inconsistent or in conflict with this Act are hereby repealed or amended to the extent of such inconsistency or conflict.

Section 9. This Act shall take effect upon its approval.

(Approved May 6, 1939.) **S.B. 239, Act 179.**

CHAPTER 30. DEPORTATION.

FROM TERRITORIAL HOSPITAL.

[Secs. 1010, 1011, 1013, amended by Act 203, infra, page 315.]

CHAPTER 32. FEEBLE-MINDED:

WAIMANO HOME.

[Secs. 1030, 1031, 1032, 1037, 1038, 1039, 1041, amended by Act 203, infra, pages 315 to 316.]

CHAPTER 33. FOOD AND DRUGS.

EGGS.

[A-22] An Act to Amend Section 1075 of the Revised Laws of Hawaii 1935, Relating to the Regulation, Grading, Sale and Importation of Eggs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1075 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

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"Sec. 1075. Enforcement. The board of commissioners of agriculture and forestry is empowered through its authorized agents, deputies and inspectors to enforce this subtitle and to have supervision and control of all enforcement officers of this subtitle in the Territory." [L. 1931, c. 70, s. 3; R. L. 1935, s. 1075; am. L. 1939, c. 92, s. 1.]

Section 2. It is hereby declared that the purpose and intent of this Act is to transfer the duties and powers of the board of health relating to the regulation, grading, sale and importation of eggs, as prescribed in sections 1073-1079 of the Revised Laws of Hawaii 1935, as amended, to the board of commissioners of agriculture and forestry.

Section 3. This Act shall take effect upon its approval.

(Approved April 24, 1939.) **S.B. 420, Act 92.**

[A-23] An Act to Amend Section 1077 of the Revised Laws of Hawaii 1935, as Amended by Act 164 (Series A-27) of the Session Laws of Hawaii 1935, Relating to the Sale of Domestic and Imported Eggs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1077 of the Revised Laws of Hawaii 1935, as amended by Act 164 (Series A-27) of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1077. Notice of grade and size; designation as to imported eggs of state or country of origin. It shall be unlawful for any person to sell, or offer to sell or expose for sale to a consumer, any eggs other than those of his own production intended for human consumption without notifying by suitable sign or label the person purchasing or intending to purchase the same whether the same are imported from the mainland United States or foreign countries or of island production, and the exact grade or quality and the size or weight of such eggs, according to the standards prescribed by the board.

In the case of eggs imported from the mainland United States or foreign countries, regardless of the person producing the same, each egg so imported shall be marked in clear and plain letters, of not less than twelve (12) point type, the letters 'U.S.', if such egg was produced in the mainland United States, or the name of the country, if such egg was produced in a foreign country, before such eggs may be removed from any dock or landing, and no crate or container containing such eggs shall be removed from any dock or landing until the consignee thereof has been furnished with a certificate of the board certifying that the eggs contained in the shipment in which such eggs arrived are marked as provided in this section; provided, however, that eggs which are preserved with an outer covering of ashes and salt need not be marked as herein provided." [L. 1931, c. 70, s. 5; R. L. 1935, s. 1077; am. L. 1935, c. 164, s. 1; am. L. 1939, c. 175, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1939.) **S.B. 421, Act 175.**

CHAPTER 36. LEPERS; HOSPITALS AND SETTLEMENT.

[A-24] An Act to Amend Section 1147, Revised Laws of Hawaii 1935, Relating to the Powers and Duties of the Board of Hospitals and Settlement and the Board of Health of the Territory of Hawaii and Providing for the Reporting of Suspected Cases of Leprosy to Either of Such Boards.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1147 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 1147. Notification. Every person who knows or has reason to believe, that he, or any other person not already under the care or control of the board, is a leper, shall forthwith report to the board or its authorized agent, or to the board of health of the territory or its authorized agent, that fact and such information relating thereto as he may have or the board or the board of health may require. The board shall, by June 1, 1939, forward to the board of health copies of all data and information regarding any person or persons so reported or known or believed by said board to be a leper and who are not under the care or control of said board. Upon any report being made by any person that he knows or has reason to believe, that he, or any other person, not already under the care and control of the board, is a leper, the board or the board of health, receiving such report, shall immediately transmit to the other, a copy of all data and information secured by said board or board of health receiving such report.” [L. 1909, c. 81, s. 3; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1147; am. L. 1939, c. 164, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 277, ACT 164.**

CHAPTER 39. MEDICINE AND SURGERY.

LICENSES.

[A-25] An Act to Amend Chapter 39 of the Revised Laws of Hawaii 1935, Relating to Medicine and Surgery.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 39 of the Revised Laws of Hawaii 1935, is hereby amended in the following respects:

(a) By amending section 1200 thereof by adding after the first proviso thereto the following provisos:

“provided also, that nothing herein contained shall prohibit service in the case of emergency or the domestic administration of family remedies; provided, further, that nothing herein contained shall apply to any commissioned medical officer in the United States army, navy, marine corps or public health service, engaged in the dis-

charge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this Territory if such practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided, however, that such practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the Territory;".

(b) By amending section 1203 thereof to read as follows:

"Sec. 1203. Board of medical examiners; qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery except upon the written report of a board of medical examiners, to be appointed and constituted as in this chapter provided, setting forth that the applicant named therein has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for such examination he shall have furnished proof satisfactory to the board of examiners that he:

- (a) is a citizen of the United States;
- (b) has been a resident of the Territory for at least one year;
- (c) is of good moral character;
- (d) is a graduate of a medical school or college classified as class 'A' in the classification of the American Medical Association, or, in lieu thereof, has actively practiced, either in some other jurisdiction or in the United States army or navy or public health service (United States), as a licensed physician of medicine or surgery for ten out of the eleven years immediately preceding;
- (e) has served an internship of at least one year in a hospital, certified or approved by the American Medical Association council on medical education and hospitals for the training of internes and resident physicians;
- (f) has visited the Kalihi Receiving Hospital for lepers and is possessed of a written statement from the senior medical officer at said hospital that the applicant is familiar with the general clinical manifestations of leprosy.

Diplomates of the National Board of Medical Examiners who meet the requirements of paragraphs (a), (b), (c) and (d) above shall be licensed without the necessity of any further examination." [L. 1896, c. 60, s. 3; am. L. 1920, c. 37, s. 1; am. L. 1925, c. 26, s. 2; R. L. 1935, s. 1203; am. L. 1939, c. 183, pt. of s. 1.]

(c) By amending section 1205 thereof to read as follows:

"Sec. 1205. Fees; special fund; expenses. No applicant shall be examined under this chapter until he has paid to the board of examiners a fee of twenty-five dollars. Every person holding a license under this chapter shall re-register with the board of examiners each year, not later than January 31st and for such re-registration shall pay a fee of two dollars. Failure so to do shall constitute a forfeiture of license, which may be restored only upon written application therefor and the payment to said board of a fee of twenty-five dollars. All of said fees shall be paid into the territorial treasury and there be deposited into a special fund for the payment, on vouchers approved by the chairman or acting chairman of said board, of the

expenses of said board in conducting examinations, which shall be held semi-annually, and in otherwise enforcing the provisions of this chapter." [L. 1896, c. 60, s. 5; L. 1920, c. 37, s. 2; am. L. 1921, c. 14, ss. 5, 10; am. L. 1925, c. 26, s. 3; am. imp. L. 1925, cc. 27, 29; R. L. 1935, s. 1205; am. L. 1939, c. 183, pt. of s. 1.]

(d) By amending section 1206 thereof by substituting for the words "professional misconduct, gross carelessness or manifest incapacity; such misconduct, carelessness or incapacity having" in the eleventh and twelfth lines thereof the following:

"any of the causes enumerated in section 1208, which cause or causes shall have".

(e) By amending the title and first paragraph of section 1208 thereof to read as follows:

"Revocation and restoration of licenses. Licenses to practice medicine and surgery may be revoked by the board of health at any time for any of the following causes:".

(f) By amending subsection 7 of said section 1208 to read as follows:

"7. Conviction, whether on a plea of nolo contendere and whether sentence or the imposition or execution of sentence has been suspended or not, of a felony or of a misdemeanor involving moral turpitude;".

(g) By adding, at the beginning of subsection 10 of said section 1208, the following:

"Professional misconduct,".

(h) By adding at the end of said section 1208 the following:

"Licenses to practice medicine and surgery may not be restored by the board of health without the approval of the board of medical examiners."

(i) By amending section 1209 thereof to read as follows:

"Sec. 1209. Notice, hearing. In any hearing before the board of health for the revocation of a license to practice medicine and surgery for any of the causes enumerated in section 1208, the person charged shall be notified in writing of the charge or charges that have been made, and of the time and place when and where evidence in support of the same will be heard, and shall have the opportunity to present evidence and be heard in his own defense." [L. 1896, c. 60, s. 8; R. L. 1935, s. 1209; am. L. 1939, c. 183, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval; provided, that any person whose application for examination had been filed with the board of medical examiners prior to the date of such approval and who was qualified to take such examination under the provisions of said chapter 39 prior to its amendment by this Act shall be entitled to be examined and, if passed, to be licensed, in the same manner as if this Act had not been enacted.

(Approved May 6, 1939.) S.B. 223, Act 183.

CHAPTER 41. MENTAL DISEASES: TERRITORIAL HOSPITAL.

[Secs. 1230-1259, amended, Sec. 1260, repealed, Secs. 1261-1264, amended, and new sections added to chapter by Act 203, infra, pages 316 to 328.]

CHAPTER 41-A. MENTAL HYGIENE.

[A-26] An Act to Provide for a Bureau of Mental Hygiene Under the Board of Health, and to Prescribe its Functions, by Adding to Title VI of the Revised Laws of Hawaii 1935 a new Chapter Numbered 41-A, and Making Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Title VI of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new chapter to be numbered chapter 41-A, and to read as follows:

"CHAPTER 41-A

Bureau of Mental Hygiene.

"Sec. 1265. Bureau; director and assistants. There is hereby created under the board of health of the Territory a bureau of mental hygiene which shall be in charge of a director who shall be appointed in the manner provided by section 900 D, who shall be a duly licensed doctor of medicine of the Territory, and certified as a psychiatrist by the American Board of Psychiatry and Neurology, Inc., and who shall receive as compensation not to exceed seven thousand dollars (\$7,000.00) per annum, or in the event that House Bill No. 3 shall be enacted into law, such amount as his position would be entitled to under the operation of that law.

There shall also be appointed by the board of health, a secretary of the bureau and such other professional and non-professional assistants to the director as the board of health shall deem necessary and for which appropriations are available.

"Sec. 1265.1. Functions of the bureau. The powers, duties and functions of the bureau shall be in accordance with rules promulgated by the board of health, as follows:

(1) To foster and promote a general educational program to acquaint the public with the principles of mental hygiene, and for the prevention of mental illness;

(2) To cooperate, within limits fixed by such rules, with all territorial and county institutions and officials in matters relating to psychiatric problems including (a) consultations, (b) case work in connection with paroled and discharged patients from such institutions when requested by the superintendent or person in charge of any such institution;

(3) To record and compile histories, statistics and other information relating to the work of the bureau; provided, that nothing herein contained shall be deemed to supersede the provisions of section 3829 relating to privileged communications;

(4) To conduct an in-patient and out-patient mental hygiene clinic for the examination, study, diagnosis, and treatment of cases of mental illness, and in such connection (a) to make such arrangements as may be necessary within available appropriations and subject to the provisions of this chapter to maintain such clinic on the island of Oahu at or in conjunction with any private hospital approved by the board of health, (b) within available appropriations to extend the services of such clinic to other islands as needed by means of visits, resident workers, and other supplementary services, and to make necessary arrangements for needed facilities therefor with any hospital approved by the board of health, (c) to determine through the director which cases are appropriate for treatment by the clinic, (d) to make reasonable charges for professional and other personal services rendered to patients, but in making such charges the financial circumstances of the patient shall be taken into consideration; provided, that no such charges shall be made where, in the judgment of the director, the same might tend to make the patient a public charge or deprive his dependents of necessary support, (e) to furnish medicines and other supplies with or without expense to any patient as deemed appropriate by the director, but charges for services, medicines and other supplies furnished by any hospital shall be paid by the patient to the hospital, except that in the case of any indigent such charges shall be paid by the county in which he resides.

..“Sec. 1265.2. Clinic collections territorial realizations. All monies collected by the mental hygiene clinic for services rendered and for medicines and other supplies furnished to patients shall be territorial realizations.”

Section 2. Appropriation. There is hereby appropriated out of the general revenues of the Territory the sum of \$64,000.00, or so much thereof as may not be included in the general appropriation Act for the bureau for the ensuing biennium, for the objects and purposes of this Act during the biennial period ending June 30, 1941, said moneys to be expended in the same manner as appropriations made for the board of health. There is also appropriated the further sum of twenty thousand dollars (\$20,000.00) from the general revenues of the Territory of Hawaii, not otherwise appropriated, which sum, or so much thereof as may be necessary, shall be expended only for the actual expenses of transportation to and maintenance in, the clinic herein created, of indigent mental cases.

SECTION 3. This Act shall take effect upon July 1, 1939, provided, that appointments may be made hereunder and the bureau organized prior to such date.

(Approved May 17, 1939.) S.B. 160, Act 257.

CHAPTER 41 A-1. MENTAL INSTITUTIONS, PRIVATE.

[A-27] An Act to Amend Title VI of the Revised Laws of Hawaii 1935, by Adding Thereto a New Chapter Numbered 41 A-1, Relating to Private Institutions for the Custody and Treatment of Persons with Mental Disorders or Incompetent Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Title VI of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new chapter, to be numbered 41 A-1 and to read as follows:

"Chapter 41 A-1. Private institutions licensed for incompetents and persons with mental disorders.

"Sec. 1268. **Private institutions to be licensed.** No person, association, or corporation shall establish, maintain, or operate an institution for the care or custody and treatment of persons with mental disorders, or of mental defectives or other incompetent persons, for compensation or hire, without first obtaining a license therefor from the board of health. Such license, if issued, may be for a definite period and shall be subject to revocation as hereinafter provided. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the buildings and the use intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the board may require. The board shall not grant any such license without first having made, or caused to be made, an examination of the premises proposed to be licensed, nor unless the board is satisfied that they are substantially as described, and are otherwise fit and suitable for the purpose for which they are designed to be used, and that such license should be granted. If the institution is to treat persons with mental disorders, it must be constantly in the charge of a duly licensed physician of the Territory to be designated 'medical director', who shall have had two years' actual experience as a member of the medical staff of an institution for the care and treatment of persons with mental disorders; the appointment of such medical director, and of all assistant physicians, must be approved in writing by the commissioner of public health. Every such institution shall employ as head nurse, a graduate of a training school of a hospital for mental disorders or a graduate of a general hospital training school who has had experience in the institutional care of persons with mental disorders; the appointment of such head nurse shall be subject to the approval of the commissioner of public health. The nursing force in every such institution shall be adequate to care for the patients under treatment therein in accordance with modern standards; such nursing force shall be increased, whenever deemed inadequate by the board. The board, or its agents, may, at any and all times, examine and ascertain whether or not a licensed institution is conducted in compliance with the license therefor, and the laws and rules applicable thereto, and, after due notice to the institution and opportunity for it to be heard, a record having been made of the proceedings upon such hearing, the board may, if the interests of the public or of the inmates of the institution so demand, for just and reasonable cause then appearing and to be stated in its order, amend or revoke any such license, by an order to take effect within such time after the service thereof upon the licensee as the board shall determine.

This action shall not apply to a general hospital making provision in a pavilion or special wards for the care, nursing and observation or temporary detention of persons alleged to be suffering from mental disorders, or of mental defectives or other incompetent persons, pending examination for commitment to the territorial hospital or an institution licensed as herein provided.

"Sec. 1268A. Chapter 41 applicable to certain institutions. The provisions of chapter 41 with respect to persons with mental disorders, and their commitment, admission, detention, discharge and parole, and appeals to the psychiatric commission, shall be applicable, insofar as the same may be appropriate, to any such licensed institution for the care and treatment of persons with mental disorders, to the same extent, as nearly as may be, as in the case of the territorial hospital and persons committed or admitted thereto. Wherever in chapter 41, provision is made for commitment or admission to the territorial hospital, such provision shall be deemed to authorize such commitment or admission to any such licensed institution in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to the territorial hospital, provided that such commitment or admission is consented to in writing by the guardian or relative having the custody of the patient and by the medical director of such licensed institution. The medical director of such licensed institution shall have the same authority with respect to the parole and discharge of patients committed or admitted to his institution, as the medical director of the territorial hospital with respect to patients committed or admitted thereto, subject, however, to the approval of the commissioner of public health. It is provided, however, that this chapter shall not be deemed to authorize the commitment of any person charged with or convicted of crime to any such licensed institution.

"Sec. 1268B. Chapter 32 applicable to certain institutions. The provisions of chapter 32 with respect to feeble-minded persons and their commission, admission, detention, discharge and parole, shall be applicable, insofar as the same may be appropriate, to any licensed institution for the care of such feeble-minded persons, to the same extent, as nearly as may be, as in the case of Waimano Home and persons committed or admitted thereto. Wherever in chapter 32, provision is made for commitment or admission to the territorial hospital, such provision shall be deemed to authorize such commitment or admission to any licensed institution mentioned in this section, in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to Waimano Home, provided that such commitment or admission is consented to in writing by the guardian or relative having the custody of the person concerned and by the superintendent of such licensed institution. The superintendent of such institution may, with the approval of the board of commissioners for Waimano Home, parole or discharge any inmate, if it appears that such inmate will be properly cared for or that his detention is no longer necessary for his own welfare or the safety of the public.

"Sec. 1268C. Rules. The board of health may adopt rules for the conduct of such licensed institutions which shall be, as nearly as may be, similar to applicable rules governing corresponding territorial institutions, but which may require the approval of the commissioner of public health to any specified action by such institution. Such

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rules shall, among other things, require reports concerning patients or inmates of such institutions to be made to the commissioner of public health at such times and in such manner as set forth in said rules.

"Sec. 1268D. Violations; penalty. Any person, association or corporation which shall establish, maintain or operate an institution for the custody and treatment of persons with mental disorders, or of mental defectives or other incompetent persons, for compensation or hire, without holding a valid unrevoked license therefor under this chapter, and any officer of any association or corporation who participates as such in any such violation of this chapter, shall be guilty of a misdemeanor, punishable by fine of not more than one thousand dollars, or, in the case of an individual by imprisonment for not more than six months or by both such fine and imprisonment."

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1939.) **S.B. 161, ACT 250.**

CHAPTER 53. VITAL STATISTICS.

REGISTRARS AND RECORDS.

[A-28] An Act to Amend Chapter 53 of the Revised Laws of Hawaii 1935, as Amended, by Amending Sections 1474, 1475, 1489, 1490 and 1492 Thereof, Relating to Vital Statistics, Births, Deaths and Marriages and Reports and Records Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1474 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1474. Births and deaths. Each registrar shall enter in his record, in respect of each birth and death in his district all the facts required to be contained in the certificate of birth provided in section 1486, if it be a birth, and all the facts required to be contained in the certificate of death provided in section 1489, if it be a death." [L.1896, c. 50, s. 6; R. L. 1935, s. 1474; am. L. 1939, c. 151, s. 1.]

Section 2. Section 1475 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1475. Marriages. Each registrar shall enter in his record, in respect of each marriage occurring in his district, all the facts required to be contained in the certificate of marriage provided in section 1491." [L. 1896, c. 50, s. 7; R. L. 1935, s. 1475; am. L. 1939, c. 151, s. 2.]

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Section 3. Section 1489 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1489. Deaths, reported by. It shall be the duty of every owner or, if the building or premise is leased or occupied or in charge of another, of the lessee or occupier or person in control or in charge of any such building or premises, in or upon which the death of any person shall take place, to report such death immediately to the registrar of the district in which the death took place. The report shall include, so far as the same are known to such person or persons, all of the facts required to be contained in the certificate of death hereinafter provided.

It shall be the duty of every physician or surgeon who shall attend, or be called upon in connection with the death of any person, to report such death immediately to the registrar of the district in which the death took place. The report shall include all of the facts required to be contained in the certificate of death hereinafter provided.

There shall be a standard certificate of death, the form and contents of which shall be prescribed by the board, and it shall be the duty of the registrar to make out said certificate when the report of death is from a source other than an attending physician or surgeon; and when the report of death is by an attending physician or surgeon said certificate shall be made out and signed by such physician or surgeon." [L. 1896, c. 50, s. 13; am. L. 1929, c. 107, s. 2; R. L. 1935, s. 1489; am. L. 1939, c. 151, s. 3.]

Section 4. Section 1490 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1490. Report of death; by others when. It shall be the duty of every minister who shall officiate at the burial of any deceased person, of every undertaker or other person who shall have charge of the burial of a deceased person, of every superintendent, physician, surgeon, manager, or other person in control or in charge of any hospital, of every midwife, of every public health officer, and of every relative of any deceased person, to give to the registrar of the district in which a death has taken place, all information or knowledge he may have concerning said deceased, whenever the registrar, or the registrar general shall request and in such manner and on such form or forms as the board may prescribe." [L. 1896, c. 50, s. 14; R. L. 1935, s. 1490; am. L. 1939, c. 151, s. 4.]

Section 5. Section 1491 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1491. Marriages, reported by. It shall be the duty of every person legally authorized to perform the marriage ceremony to immediately report every marriage ceremony, performed by him, to the registrar of the district in which such marriage takes place, setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the board." [L. 1896, c. 50, s. 15; R. L. 1935, s. 1491; am. L. 1939, c. 151, s. 5.]

PUBLIC LANDS.

SERIES A-28.—Act 151.]

SERIES A-29.—Act 143.]

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Section 6. Section 1492 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1492. Issuance of licenses, reported by. It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the registrar of the district in which the license is issued, setting forth all facts required to be stated in such manner and on such form as the board may prescribe." [L. 1896, c. 50, s. 16; R. L. 1935, s. 1492; am. L. 1939, c. 151, s. 6.]

Section 7. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **H.B. 67, Act 151.**

Title VII. PUBLIC LANDS.

CHAPTER 54. PUBLIC LANDS; MANAGEMENT AND DISPOSITION OF.

[A-29] An Act to Repeal Act 151 (Series A-30) of the Session Laws of Hawaii 1935, Relating to Public Lands.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 151 (Series A-30) of the Session Laws of Hawaii 1935 is hereby repealed.

Section 2. This Act shall take effect from and after the date of its approval.

(Approved May 1, 1939.) **S.B. 266, Act 143.**

[Note: Act 151 (Series A-30) S. L. 1935 was never approved by Congress as provided by section 21 thereof. Hence, the following sections of Revised Laws of Hawaii 1935 have not been amended: Sections 1550, 1554, 1555, 1564, 1566, 1567, 1568, 1569, 1571, 1572, 1578, 1584, 1586, 1592, 1594, 1600, 1607, 1636. The following sections were not repealed: Sections 1582, 1589, 1599. And the following sections were not added to Chapter 54: Sections 1600-A, 1647-A, 1653, 1654. The only amendment to Chapter 54 to date is contained in the following Act.]

[A-30] An Act to Add to Chapter 54 of the Revised Laws of Hawaii 1935 a New Section Numbered 1563-A, Providing for the Appointment of a Ranger of Public Lands for the Territory and Prescribing his Powers and Duties.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section numbered 1563-A is hereby added to chapter 54 of the Revised Laws of Hawaii 1935, to read as follows:

"Sec. 1563-A. **Territorial ranger; appointment, duties, salary.** The commissioner, subject to such civil service and classification statutes that may be in force from time to time, may appoint, discharge and fix the compensation of one person to be ranger of all public lands, whose duties shall be to examine and inspect public lands and to observe and determine whether the provisions of the Organic Act and this chapter and the provisions of patents, leases, deeds, licenses, agreements or other instruments in respect to such public lands are being complied with by tenants, lessees, licensees, grantees or other persons occupying or possessing such public lands. Such ranger shall report to the commissioner, and otherwise discharge such duties in respect to such public lands as the commissioner may require. Such ranger shall also examine and inspect lands and chattels owned, mortgaged or sought to be mortgaged to the farm loan board of Hawaii and shall observe and determine whether the provisions of chapter 253, as amended, and the provisions of mortgages, agreements or other instruments in respect to such lands and chattels are being complied with by mortgagees, vendees, licensees, or other persons occupying or possessing such lands or chattels. Such ranger shall report, in respect to such lands and chattels, to the farm loan board and otherwise discharge such duties in respect to such lands and chattels as such board may require. The salary and necessary traveling and other expenses of such ranger shall be paid out of appropriations made by the legislature for the office of commissioner of public lands and survey department."

Section 2. This Act shall take effect on July 1, 1939.

(Approved May 8, 1939.) **S.B. 16, ACT 189.**

Title IX. TAXATION.

CHAPTER 61. ADMINISTRATION AND REAL PROPERTY TAX.

[A-31] An Act to Amend Chapter 61 of the Revised Laws of Hawaii 1935, Relating to Taxation, by Amending Section 1914 Thereof, Relating to Assessments; by Adding Thereto a New Section to be Numbered 1927A, Relating to Reassessment of Property; by Amending Section 1931 Thereof, relating to Assessment lists; by Amending Section 1926 Thereof, Relating to Assessment of Property of Unknown Owners; by Amending Section 1933 Thereof, Relating to Notice of Assessments; by Amending Section 1958 Thereof, Relating to Penalty and Interest for Delinquency in the Payment of Taxes; by Amending Section 1961 Thereof, Relating to Foreclosure of Tax Liens; by Adding Thereto a New Section to be Numbered 1961A Relating to Tax Deeds as Evidence; and by Adding Thereto a New Section to be Numbered 1961B Relating to the Disposition of Surplus Moneys Arising from Tax Sales and Escheat Thereof to the Territory in Certain Cases.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby amended by amending section 1914 thereof to read as follows:

"Sec. 1914. Informalities not to invalidate assessments, mistakes in names or notices, etc. No assessment or act relating to the assessment or collection of taxes under this chapter shall be illegal or invalidate such assessment, levy or collection on account of mere informality, nor because the same was not completed within the time required by law, nor, if the notice by publication provided for by section 1933 has been given, on account of a mistake in the name of the owner or supposed owner of the property assessed, or failure to name the owner, or failure to give the notice of assessment by personal delivery or mail provided for by said section 1933." [L. 1932, 2d, c. 40, s. 3; R. L. 1935, s. 1914; am. L. 1939, c. 221, s. 1.]

[**Sec. 1921. Real property tax; determination of rate.** Amended by Act 198, infra, page 52.]

[**Sec. 1926. Assessment of property of unknown owners.** Amended by section 4 of this Act.]

[**Sec. 1927. Assessment of unreturned or omitted property; review; penalty.** Amended by Act 208, infra page 52.]

Section 2. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new section to be numbered 1927A, to read as follows:

"Sec. 1927A. Reassessments. Any property assessed to a person or persons who did not have record title upon January 1 of the tax year for which such assessment is made, may be, and in any case where the attempted assessment of property is void or so defective as to create no real property tax lien on the property such property shall be, assessed as omitted property in the manner provided by section 1927."

[Sec. 1928. Returns; made when; open to public. Amended by Act Act 208, infra, page 53.]

Section 3. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 1931 thereof to read as follows:

"Sec. 1931. Assessment lists. In each year, on or before April 30 the commissioner shall prepare or cause to be prepared from the records of taxable properties maintained in each division a list of all assessments made for each district in such division, which list shall be signed, sworn to by the person preparing the same, and filed in triplicate in the commissioner's office. Such assessment list showing a brief description of the property assessed, valuations of real property, amounts of exemptions allowed in each case and net taxable values shall be signed, sworn to by the person preparing the same, and filed in triplicate in the commissioner's office. Such assessment lists showing descriptions as aforesaid, valuations of real property, amounts of exemptions allowed in each case and net taxable values shall be the lists in accordance with which taxes shall be collected, subject only to changes made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination. Except as specifically provided in this chapter, no changes in, additions to, or deductions from, such assessments shall thereafter be made except to add thereto property or taxes which may have been omitted therefrom, or to deduct therefrom adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors and errors in calculation. There shall be noted upon such lists all appeals taken for such year and the amounts involved in each case. The originals of the assessment lists shall be retained by the commissioner and the duplicate copies thereof shall be by him delivered to the treasurer not later than May 1 and the triplicate copies thereof shall be by him delivered to the collectors of the various divisions concerned not later than May 1." [L. 1932, 2d. c. 40, s. 33; R. L. 1935, s. 1931; am. L. 1939, c. 221, s. 3.]

Section 4. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 1926 thereof to read as follows:

"Sec. 1926. Assessment of property of unknown owners. The taxable property of persons unknown, or some of whom are unknown, shall be assessed to 'unknown owners', or to named persons and 'unknown owners', as the case may be. The taxable property of persons not having record title thereto on January 1 of the tax year for which such assessment is made, or some of whom did not have record title thereto on January 1 of such tax year, may be assessed to 'unknown owners', or to named persons and 'unknown owners', as the case may be. Such property may be levied upon for unpaid taxes." [L. 1932, 2d, c. 40, s. 24; R. L. 1935, s. 1926; am. L. 1939, c. 221, s. 4.]

Section 5. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 1933 thereof by adding thereto a new paragraph to read as follows:

"In addition to the foregoing, in each year beginning with the tax year 1940 the assessor of each division shall give notice of the assessments in his division for such year by public notice (by publication thereof in English at least three times on different days during the month of March of such year in a newspaper of general circulation in such division, published in the English language) of a time when

(which shall be not less than a period of ten days prior to April 20 of such year) and of a place where the records of taxable properties maintained in such division showing all assessments made for such division may be inspected by any person for the purpose of enabling him to ascertain what assessments have been made against him or his property and to confer with the assessor so that any errors may be corrected before the filing of the assessment list."

[Ses. 1934, 1935, 1937, 1939, 1940, 1941, 1944, 1945, 1947, 1950, 1951, 1954, relating to tax returns, assessment of property and tax appeals, amended by Act 208, infra, pages 53 to 60.]

Section 6. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 1958 thereof by adding thereto a new paragraph to read as follows:

"For the purposes of this section, the word 'month' shall mean a calendar month."

[Sec. 1959A. Refunds. Added by Act 213, infra page 63.]

Section 7. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 1961 thereof by deleting the second and third paragraphs of said section and inserting in lieu thereof the following:

"The notice of sale shall contain the names of the persons assessed, the names of the present owners, so far as shown by the records in the bureau of conveyances or the office of the assistant registrar of the land court, the character and amount of the tax, and the tax year or years, with interest, penalties, costs, expenses and charges accrued or to accrue to the date appointed for the sale, a brief description of the property to be sold, and the time and place of sale, and shall warn the persons assessed and the present owners that unless the tax, with all interest, penalties, costs, expenses and charges accrued to the date of payment, is paid before the time of sale appointed, the property advertised for sale will be sold as advertised. The tax collector may include in one advertisement of notice of sale notice of foreclosure upon more than one parcel of real property, whether or not owned by the same person and whether or not the liens are for the same taxation year or years.

If at the time appointed for such sale the tax collector shall deem it expedient and for the interest of all persons concerned therein to postpone the sale of any property or properties for want of purchasers, or for other sufficient cause he may postpone it from time to time, until the sale shall be completed, giving notice of every such adjournment by a public declaration thereof at the time and place last appointed for the sale, provided, further, that the sale of any property may be abandoned at the time first appointed or any adjourned date, if no proper bid is received sufficient to satisfy the lien, together with all interest, penalties, costs, expenses, and charges aforesaid.

The tax collector, or his assistant, shall, on payment of the purchase price, make, execute and deliver all proper conveyances necessary in the premises and the delivery of the conveyances shall vest in the purchaser the title to the property sold; provided, that the deed to the premises shall be recorded within sixty days after the sale, and provided, further, that the taxpayer may redeem the property sold as aforesaid by payment to the purchaser at the sale, within one

year from the date thereof, of the amount paid by the purchaser, together with all costs and expenses which the purchaser was required to pay, including the fee for recording the deed, and in addition thereto, interest on such amount at the rate of twelve per centum per annum.

The tax commissioner by regulation may prescribe a schedule of costs, expenses and charges and the manner in which the same shall be apportioned between the various properties offered for sale and the time at which each cost, expense or charge shall be deemed to accrue; and such costs, expenses, and charges shall be added to and become a part of the lien on the property for the last year involved in the sale or proposed sale, the tax for which is delinquent. Such costs, expenses and charges may include provision for the making of searches of any records to guard against invalid assessments, ascertain the mortgages and other liens, or furnish information to be used in the notice of sale or tax deed, and may include provision for certificates of such searches."

Section 8. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by adding thereto a new section to be numbered 1961A, to read as follows:

"Sec. 1961A. Tax deed as evidence. The tax deed referred to in section 1961 is prima facie evidence that:

1. That property described by the deed was duly assessed for taxes in the years stated in the deed, and to the persons therein named.
2. The property described by the deed was subject on the date of the sale to a lien or liens for real property taxes, penalties, and interest in the amount stated in the deed, for the tax years therein stated, and that said taxes, penalties, and interest were due and unpaid on said date of sale.
3. Costs, expenses and charges due or incurred on account of the taxes, liens and sale had accrued at the date of the sale in the amount stated in the deed.
4. The person who executed the deed was the proper officer.
5. At a proper time and place the property was sold at public auction as prescribed by law, and by the proper officer.
6. The sale was made upon full compliance with section 1961 of the Revised Laws of Hawaii 1935, and all laws relating thereto, and after giving notice as required by law.
7. The grantee named in the deed was the person entitled to receive the conveyance."

Section 9. Chapter 61 of the Revised Laws of Hawaii 1935 is hereby further amended by adding thereto a new section to be numbered 1961B to read as follows:

"Sec. 1961B. Disposition of surplus moneys arising from tax sales under section 1961, escheat. The officer charged with the duty of distributing the surplus arising from a tax sale under section 1961 shall pay therefrom all taxes of whatsoever nature and howsoever accruing as stated in the second paragraph of section 1960. If such

officer is in doubt as to the person or persons entitled to the balance of such fund he may refuse to distribute such surplus and any claimant may sue such officer or his successor in office in the circuit court in the circuit within which the property sold was situated. The officer shall have the benefit of the provisions of sections 4059 to 4066 of the Revised Laws of Hawaii 1935, relating to interpleader. In his application pursuant to such sections the officer shall state the names of all claimants known to him, and if in his opinion there may be other claimants who are unknown such officer may apply for an order or orders directed to all persons named in the application and generally to all persons known or unknown having or claiming to have any legal or equitable right, title or interest in such moneys or any part thereof or any lien or other claim with respect thereto, who shall be deemed the 'third person' within the meaning of said section 4059 for the purposes of said suit. Any orders of the court or summons in said matter may be served as provided by law, and all persons having any interest in such moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them shall be under legal age or under other legal disability and without a guardian the court shall appoint a guardian ad litem to represent them therein) shall have notice of the suit by personal service upon them. All persons having any interest in such moneys whose names are unknown or who if known do not reside within the Territory or for any reason cannot be served with process shall have notice of the suit by publication in at least one newspaper published in the Territory and having a general circulation in the circuit within which the property sold was situated, in such manner and for such time as the court may order. The court shall prescribe the form of notice to be published so as to provide a general statement of the nature of the suit and a brief description of the property which was sold. After notice shall have been given as required said court shall proceed to act in the premises as though unknown or unserved parties had been duly served and notified by their proper names, provided, however, that in lieu of such publication the court may order service by registered mail with request for a return receipt, which service evidenced by such receipt signed by the third person and returned to the clerk of the court shall be regarded as equivalent to service by publication or in lieu thereof, or the court may order personal service without the Territory. All expenses incurred by such officer shall be met out of the fund deposited in court pursuant to said section 4059.

If any surplus moneys realized from such sale remain on deposit in the treasury awaiting distribution to the persons thereto entitled for a period of ten years from the date of the sale or from the effective date of this Act, as the case may be, and no action shall have been commenced by any claimant for the recovery of such moneys within such period the territorial treasurer shall take proceedings to obtain the escheat of such moneys to the Territory in the same manner as if such moneys were subject to the provisions of sections 4236, 4236A, and 4237 of the Revised Laws of Hawaii 1935, as amended and added by Act 192 (Series C-103) of the Session Laws of Hawaii 1935. The information filed shall contain the names of any persons assessed and the owners of the property at the time of the sale as contained in the notice of such sale, and the summons issued shall be served by publication, shall be directed to all persons including those named as respondents therein claiming any interest in such moneys, and shall contain a brief description of the property which was sold. All of the

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provisions of said sections 4236, 4236A, and 4237 not inapplicable and not inconsistent with the provisions of this section are hereby made applicable to the funds arising from such tax sale."

Section 10. Effective date. This Act shall take effect upon its approval, and shall apply to assessments made after the effective date of this Act regardless of the tax year for which such assessment is made, and to funds arising from tax sales now awaiting distribution, provided, however, that this Act shall not become law and shall not become effective unless and until such time as House Bill No. 182 of the present session of the legislature is enacted into law and becomes effective.

(Approved May 13, 1939.) **S.B. 349, ACT 221.**

[A-32] An Act Amending Section 1921 of the Revised Laws of Hawaii 1935, as Amended by Act 172 of the Session Laws of Hawaii 1937, Relating to Real Property Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1921 of the Revised Laws of Hawaii 1935, as amended by Act 172 of the Session Laws of Hawaii 1937, is hereby further amended by deleting from subparagraph (a) of the third paragraph, on page 68 of said Session Laws, the figures "\$3,500,000.00", and inserting in lieu thereof the figures "\$3,750,000.00".

Section 2. This Act shall take effect upon its approval.

(Approved May 9, 1939.) **S.B. 282, ACT 198.**

[A-33] An Act to Amend Sections 1927, 1928, 1934, 1935, 1937, 1939, 1940, 1941, 1944, 1945, 1947, 1950, 1951, 1954, 2104 and 2105, of the Revised Laws of Hawaii 1935, as the Same are Amended by Act 153 Session Laws of Hawaii 1935, Relating to Tax Returns, Assessment of Property and Tax Appeals.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1927 of the Revised Laws of Hawaii, 1935, is hereby amended to read as follows:

"Sec. 1927. Assessment of unreturned or omitted property; review; penalty. If, when returns shall be required under the provisions of this chapter, any person shall refuse or neglect to make such returns, or shall decline to take oath to the accuracy thereof, or shall omit any property from a return, the assessor shall make the assessment according to the best information available and shall add to the assessment or tax lists for the year or years during which the same was not taxed, the property unreturned or omitted. Likewise, if for any other reason any real property shall have been omitted from the assessment lists for any year or years, the assessor shall add to such lists such omitted property. Notice of such action shall be given the owner.

if known, within ten days after such assessment or addition, by mailing the same addressed to him at his last known place of residence. Any owner desiring a review of such assessment or such addition may appeal to the board of review of the division in which the property is located by filing with the assessor a written notice thereof in the manner prescribed in section 1937 at any time within thirty days after the date of mailing such notice, or may appeal to the tax appeal court by filing written notice of appeal with, and paying the necessary costs to, such court within said period and in the manner prescribed in section 1937.

A penalty of ten per centum shall be added by the assessor to the amount of any assessment made by him pursuant to the provisions of this section, which penalty shall be and become a part of such assessment so made; provided that no such penalty shall be imposed where the failure to assess or tax such property was not due to the refusal or neglect of the owner to return same or take oath to the accuracy of his return.

For the purpose of determining the rate of delinquency of taxes pursuant to assessments under this section such taxes shall be deemed delinquent if not paid within 30 days after the date of mailing of notice of assessment, or if assessed for the current assessment year, within 30 days after the date of mailing such notice or on or before the next installment payment date if any for such taxes, whichever is later.” [L. 1932, 2d, c. 40, s. 32; R. L. 1935, s. 1927; am. L. 1939, c. 208, s. 1.]

[Sec. 1926, amended, and Sec. 1927A added, by Act 221, supra, pages 48 and 47.]

Section 2. Section 1928 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“**Sec. 1928. Returns, made when; form; open to public.** In any taxation division, whenever the tax commissioner shall so order, the assessor shall give, to the taxpayers of his division during the month of December of the year such order is made, public notice (by publication thereof, in English, at least three times on different days during the month, in a newspaper of general circulation in such division, published in the English language) requiring such taxpayers to file with the assessor, on or before January 31 of the succeeding year, returns in the manner and form required by this section. After such publication of notice, every person owning, or having possession, custody or control of, real property in such division, whether entitled to exemption or not, shall, during the month of January, file, upon forms prescribed by the commissioner and in the manner required by such forms a return signed and sworn to by him setting forth the description and location of all real property in the division belonging to such person or of which he had possession, custody or control on the first day of the month of January. It shall be sufficient to describe his property by setting forth the location and a brief description in sufficient detail to identify the same. All such returns shall be open to inspection by the public.” [L. 1932, 2d, c. 40, s. 28; R. L. 1935, s. 1928; am. L. 1939, c. 208, s. 2.]

[Sec. 1933, amended by Act 221, supra, page 48.]

Section 3. Section 1934 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“**Sec. 1934. Time as of which levy and assessment made.** Taxes shall be levied upon real property each year as of January 1 of such

year upon the basis of valuations determined in the manner and at the time provided in this chapter. The land in each division shall, except as in this section provided, be assessed once in every fourth year as of January 1 of such year, commencing with the following: (a) in the first division; January 1, 1934; (b) in the second division; January 1, 1935; (c) in the third division, January 1, 1936; and (d) in the fourth division, January 1, 1937; provided, that, until the date of commencement of the four year period for each division, the land in such division shall be assessed each year as of January 1 of such year. The valuation fixed by the assessment of land in any division during and for the first year of each four-year period for the division shall continue to be used as the basis for taxation under this chapter for such four-year period; provided that the assessor of the division shall re-assess any property as of January 1 of any year during the four-year period, following the first year thereof, whenever there has occurred, since the last assessment of the same property and prior to such first day of January, such a material change in its use, character or condition, as to make the existing assessment substantially inequitable or unjust, either to the owner or to the Territory, or as to result in any substantial inequality between the land and other similar land in the same locality." [L. 1932, 2d, c. 40, s. 25; R. L. 1935, s. 1934; am. L. 1939, c. 208, s. 3.]

Section 4. Section 1935 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1935. Valuations; considerations in fixing; buildings revalued yearly; records. It shall be the duty of the commissioner to cause to be determined and assessed the value of all taxable real property by appropriate systematic methods so selected and applied as to secure, as far as possible, uniform and equalized results throughout the Territory. Complete records shall be compiled and kept in each division which shall show in detail the methods used and the consideration given to elements of value which have influenced the values determined.

In determining values the land in each taxation district shall be classified in accordance with its character and use, and whenever feasible to do so a unit of quantity shall be established for each class. Whenever land has been divided into lots or parcels which are used or suitable for use for residential, commercial or other urban or village purposes, the unit of quantity shall be so chosen as to permit of the use of mathematical tables or formulas designed to determine equitably the effect, upon the value, of street or highway frontages, depth from the street or highway, shape, distance from street corners, and any other physical elements which affect value, whether to increase or decrease the same. The commissioner shall select and require the use of such tables in assessing land for all areas where this can be done appropriately. In other areas such unit of quantity shall be selected and used as is appropriate. In determining the value of land consideration shall be given to the advantage or disadvantage of location; accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, productivity and nature of use, and further to selling prices, and to the opinions of persons who may be considered to have special knowledge of land values, and further to all other influences whether similar to those listed or not, which fairly and reasonably bear upon the question of value.

Buildings shall be valued and assessed each year upon the basis of the cost of replacement less proper depreciation due to age, condi-

tion and utility or obsolescence. The Commissioner shall determine and require the use of averaged basic unit replacement cost factors which when once determined shall be employed for successive periods of four years.

For informative and statistical purposes, the commissioner shall similarly cause to be determined and assessed the value of all non-taxable real property in each division." [L. 1932, 2d, c. 40, s. 26; R. L. 1935, s. 1935; am. L. 1939, c. 208, s. 4.]

Section 5. Section 1937 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1937. Appeal from assessment to board of review or tax appeal court; procedure. Any taxpayer who may deem himself aggrieved by an assessment made by the assessor or by the assessor's refusal to reassess any property under the terms of section 1934 or to allow any exemption, may appeal from such assessment or from such refusal to a board of review. In case the assessment is one upon real or personal property then the appeal to a board of review shall be to the board of review for the division in which the property is located. In all other cases the appeal to a board of review may be either to the board of review for the division in which the taxpayer has his principal place of business or to the board of review for the division in which the taxpayer resides or has his principal office or to the board of review of the first division. The notice of appeal must be lodged with the assessor on or before April 20th of the assessment year. Such notice of appeal must be in writing and any such notice, however informal it may be, identifying the assessment involved in the appeal, stating the valuation claimed by the taxpayer and the grounds of objection to the assessment shall be sufficient. Upon the necessary information being furnished by the taxpayer to the assessor, the assessor shall prepare such notice of appeal upon request of the taxpayer and any such notice so prepared by the assessor shall be deemed sufficient as to its form. The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer in his notice of appeal. Any objection involving the Constitution or laws of the United States may be included by the taxpayer in his notice of appeal and in such case such objections may be heard and determined by the tax appeal court on appeal from a decision of the board of review; but this provision shall not be construed to confer upon the board of review the power to hear or determine such objections. Any notice of appeal may be amended at any time prior to the board's decision, provided the amendment does not substantially change the dispute or lower the valuation claimed. An appeal to the board of review shall be deemed to have been taken in time if the notice thereof shall have been deposited in the mail, postage prepaid, properly addressed to the assessor, on or before said date.

If the taxpayer prefers he may, in all cases, appeal directly to the tax appeal court without appealing to the board of review by filing, on or before April 20th of the assessment year, a written notice of appeal in the office of the tax appeal court and the payment to the court of costs in the amount fixed by section 1942. The taxpayer shall also file a copy of the notice of appeal in the assessor's office or mail

such copy to the assessor not later than April 20th of the assessment year.

The notice of appeal to the tax appeal court shall be sufficient if it meets the requirements herein prescribed for a notice of appeal to the board of review, provided that it sets forth the following additional information, to wit:

A brief description of the property involved in sufficient detail to identify the same and the valuation placed thereon by the assessor. In the case of personal property it shall be sufficient for the taxpayer to describe the property in the manner required by section 2105.

Such notice of appeal shall be accompanied by a copy of the taxpayer's return, if any has been filed.

An appeal to the tax appeal court shall be deemed to have been taken in time if the notice thereof and costs and the copy of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court and the assessor, respectively, on or before said date.

An appeal to the tax appeal court shall bring up for review all questions of fact and all questions of law, including constitutional questions, necessary to the determination of the objections raised by the taxpayer in his notice of appeal.

No taxpayer shall be deemed aggrieved by an assessment to the extent that it is in accordance with his return." [L. 1932, 2d, c. 40, s. 38; R. L. 1935, s. 1937; am. L. 1939, c. 208, s. 5.]

Section 6. Section 1939 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1939. Boards of review; duties, powers, procedure before. The board of review for each division shall hear informally all disputes between the assessor and any taxpayer in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute, provided, however, that this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with his return.

Each board shall hold public meetings at some central location in its taxation division, commencing not later than April 20 of each year and shall hear, as speedily as possible, all appeals presented for each year. Each board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer in his notice of appeal, and without prejudice to the generality of the foregoing, each board shall have power to allow or disallow exemptions pursuant to law whether or not previously allowed or disallowed by the assessor and to increase or lower any assessment. There shall be no written record of such proceedings. The board shall file with the assessor concerned its decision in writing on each appeal decided by it, and a certified copy thereof shall be furnished by the assessor forthwith to the taxpayer concerned by delivery thereof to him, or by mailing the same addressed to his last known place of residence.

No Board of Review shall have power to determine or declare an assessment illegal or void.

Each board and each member thereof in addition to all other powers shall also have the power to subpoena witnesses, administer oaths, examine books and records and hear and take evidence in relation to any subject pending before the board. Assessments for the

same year upon other similar property situated in the Territory shall be receivable in evidence upon the hearing. The circuit courts shall have the power upon request of the boards to enforce by proper proceedings the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the boards." [L. 1932, 2d, c. 40, s. 40; R. L. 1935, s. 1939; am. L. 1939, c. 208, s. 6.]

Section 7. Section 1940 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1940. Appeals from boards of review to tax appeal court; procedure. An appeal shall lie to the tax appeal court from the decision of a board of review by the filing, by either the taxpayer or the tax assessor of written notice of appeal in the office of the tax appeal court within twenty days after the filing of the decision of the board of review and, in the case of an appealing taxpayer, the payment of such costs of court in the amount fixed by section 1942. The taxpayer shall also file a copy of the notice of appeal in the assessor's office. Such notice of appeal shall be sufficient if it states that the taxpayer or assessor appeals from the decision of the board of review to the tax appeal court and may be amended at any time. The appeal shall bring up for determination all questions of fact and all questions of law, including constitutional questions, involved in the appeal.

In case of an appeal by the assessor a copy of the notice of appeal shall be forthwith delivered or mailed to the taxpayer concerned in the manner provided in the preceding section for giving notice of decisions. An appeal by the taxpayer shall be deemed to have been taken in time if the notice thereof and costs, if any, and the copy of the notice, shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court and tax assessor, respectively, within the period hereinabove provided." [L. 1932, 2d, c. 40, s. 41; R. L. 1935, s. 1940; am. L. 1939, c. 208, s. 7.]

Section 8. Section 1941 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1941. Certificate of appeal to tax appeal court. Upon the perfecting of an appeal to the tax appeal court, the tax assessor of the division from which the appeal is taken shall immediately send up to the tax appeal court a certificate in which there shall be set forth the information required by section 1937 to be set forth in the notice of appeal where an appeal is taken direct from the assessment to the tax appeal court.

Such certificate shall be accompanied by the taxpayer's return, if any has been filed, a copy of the notice of appeal to the board of review and any amendments thereto and the decision or action, if any, of the board of review. Failure of the assessor to comply here-with shall not prejudice or affect the taxpayer's or assessor's appeal and such certificate of appeal may be amended at any time up to the final determination of the appeal." [L. 1932, 2d, c. 40, s. 45; R. L. 1935, s. 1941; am. L. 1939, c. 208, s. 8.]

Section 9. Section 1944 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1944. Hearing de novo before tax appeal court. The hearing before the tax appeal court shall be a hearing de novo, and each party shall have the right to introduce, or the tax appeal court may,

of its own motion, require the taking of such evidence in relation to the subject pending as in the court's discretion may be deemed proper. The court shall, in the manner provided in section 1945, determine all questions of fact and all questions of law, including constitutional questions, involved in the appeal.

Assessments for the same year upon other similar property situate in the territory shall be receivable in evidence upon the hearing.

Upon the application of either the taxpayer or the assessor, the judge of the tax appeal court, upon notice, may allow and direct a bill of particulars of the claim of either the taxpayer or the assessor to be delivered to the other, and in case of default the judge shall preclude the person so defaulting from giving evidence of the part or parts of his affirmative claim of which particulars have not been delivered." [L. 1932, 2d, c. 40, s. 46; am. L. 1933, c. 195, s. 2; R. L. 1935, s. 1944; am. L. 1939, c. 208, s. 9.]

Section 10. Section 1945 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1945. **Tax appeal court; appointment, removal, compensation; powers of chairman.** There shall be a tax appeal court which shall consist of three members, each of whom shall have resided in the territory for at least three years immediately preceding his appointment, to be appointed and to be removable by the governor as provided in Section 80 of the Organic Act. One member shall be an attorney at law, duly licensed to practice in all of the courts of the territory, who, when appointed, shall be designated as judge of the tax appeal court. The judge of the tax appeal court shall (1) act as chairman of the court; (2) preside at all meetings thereof; (3) with or without the presence of the other members of the court (a) decide all questions of law, including all constitutional questions, (b) allow or deny all bills of particulars; (c) determine all motions and make all orders thereon; and (4) determine the admissibility of all evidence. His acts and rulings under such circumstances shall constitute and be the acts and rulings of the court. The judge and other members of the court shall determine all questions of fact. Each member of the court shall be appointed for a term of four years commencing January 1 immediately following the end of the preceding term, except that the first three members shall be appointed, one for a term expiring December 31, 1934, one for a term expiring December 31, 1936, and one for a term expiring December 31, 1937. Any vacancy in the membership of the court shall be filled for the remainder of such unexpired term. The members of the court shall receive and be paid out of the treasury compensation for their services at the rate of twenty dollars per day for the member of the court designated as judge thereof and fifteen dollars per day for each of the other members thereof for each day's actual attendance upon their duties. The members of the court shall be paid such reasonable traveling and other expenses as may be incurred in the discharge of their duties. No officer or employee of the territory or any political subdivision thereof shall be eligible for appointment to said court. The governor may appoint an acting member of the court to serve during the temporary absence from the territory, illness or disqualification of any member thereof.

The provisions of section 3572 and the provisions of section 84 of the Organic Act relating to the disqualification of judges shall be equally applicable to the members of the court." [L. 1932, 2d, c. 40,

s. 42; am. L. 1933, c. 195, s. 1; R. L. 1935, s. 1945; am. L. 1935, c. 161, s. 1; am. L. 1939, c. 208, s. 10.]

Section 11. Section 1947 of the Revised Laws of Hawaii 1935, as amended by Act 153, Session Laws of 1935, is hereby amended to read as follows:

"Sec. 1947. Tax appeal court; court of record; general duties, powers, seal. The tax court shall hear and determine appeals as provided in sections 1937 or 1940. It shall have all the powers of a court of record with respect to matters within its jurisdiction, including the power and authority, in the manner provided in sections 1944 and 1945, to decide all questions of fact and all questions of law, including constitutional questions, involved in any appeal. The court may meet at such times during the year and at such places from time to time as shall be deemed advisable to carry out its work. The court, with the approval of the supreme court, shall adopt and use, and with such approval may change from time to time, an official seal.

Such tax appeal court may admit to practice before it such persons as have been admitted to practice before the Treasury Department of the United States or the United States Board of Tax Appeals." [L. 1932, 2d, s. 40, s. 43; R. L. 1935, s. 1947; am. L. 1935, c. 153, s. 2; am. L. 1939, c. 208, s. 11.]

Section 12. Section 1950 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1950. Appeals to supreme court; procedure. Any taxpayer aggrieved or the assessor may appeal to the supreme court from the decision of the tax appeal court by filing a written notice of appeal with the tax appeal court and depositing therewith the costs of appeal within twenty days after the filing of the decision. The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, including constitutional questions, involved in the appeal. A notice of appeal may be amended at any time up to the final determination of the tax liability by the last court to which an appeal may be taken. The supreme court shall enter a judgment in conformity with its opinion or decision.

All such appeals shall be speedily disposed of and in the hearing and disposition thereof the same shall be given preference over other litigation in the discretion of the court." [L. 1932, 2d, c. 40, s. 51; R. L. 1935, s. 1950; am. L. 1939, c. 208, s. 12.]

Section 13. Section 1951 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1951. Certificate of appeal; to supreme court. Upon the perfection of an appeal to the supreme court the judge of the tax appeal court shall send up to the supreme court a certificate in which there shall be set forth, among other things:

1. A brief description of the assessment and the property involved in the appeal in sufficient detail to identify the same together with the valuation placed on such property by the assessor. In the case of personal property it shall be sufficient to describe the property in the manner required by section 2105.

2. The valuation claimed by the taxpayer.

3. The taxpayer's grounds of objection to the assessment.
 4. The valuation, if any, placed thereon by the board of review.
 5. The valuation placed thereon by the tax appeal court.
6. The certificate shall be accompanied by the taxpayer's return, if any, a copy of the notice of appeal from the assessment and any amendments thereof, the decision, if any, of the board of review, a copy of the notice of appeal from the decision of the board of review, if any, and any amendments thereof, and a transcript or statement of the evidence before and the decision of the tax appeal court and all exhibits, motions, orders or other documents specified by either the taxpayer or the assessor. Failure of the judge of the tax appeal court to send up or properly prepare the certificate or the accompanying documents shall not prejudice, limit or in any manner affect the taxpayer's or assessor's appeal, and such certificate of appeal may be amended at any time up to the final determination of the appeal." [L. 1932, 2d, c. 40, s. 52; R. L. 1935, s. 1951; am. L. 1939, c. 208, s. 13.]

Section 14. Section 1954 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1954. Amendment of assessment list to conform to decision. The assessor shall alter or amend the assessment and the assessment list in conformity with the decision or judgment of the last board or court to which an appeal may have been taken." [L. 1932, 2d, c. 40, s. 56; R. L. 1935, s. 1954; am. L. 1939, c. 208, s. 14.]

Section 15. Section 2104 of the Revised Laws of Hawaii 1935, as amended by Act 153, Session Laws of 1935, is hereby amended by deleting the first seventeen lines of said section and inserting in lieu thereof the following:

"Sec. 2104. Assessment; basis. The value of personal property for the purpose of assessment shall be determined as follows:

(a) For goods, chattels, wares and merchandise constituting stock in trade, held for sale in the Territory, the average value of the stock in trade on hand at the end of each month during the twelve months preceding January 1 of the assessment year, upon the basis of cost, or cost or market value whichever is the lower, or such average value upon such basis during the portion of said period during which the stock in trade was held.

(b) For machinery, equipment and furniture and fixtures, not covered by paragraph (a), the taxable value thereof for the purpose of this chapter shall be the installed replacement cost thereof, less depreciation for age, condition and obsolescence. In determining the amount of depreciation which shall be allowed the figures appearing in taxpayer's books shall not be conclusive and in determining the degree of obsolescence proper consideration shall be given to the cost and efficiency of new machinery, equipment, furniture and fixtures of the same type as those taxed compared with the cost and efficiency of other machinery, equipment, furniture and fixtures suitable to perform the same or similar functions as those taxed."

Section 16. Section 2105 of the Revised Laws of Hawaii 1935, as amended by Act 153, Session Laws of 1935, is hereby amended to read as follows:

"Sec. 2105. Returns; conditional assessment on basis of returns.

1. Every person, including life tenants, executors, administrators, trustees, guardians or other fiduciaries, lessees, under any government lease or license, pledgees, and bailees (where the owners are non-residents of the Territory) or consignees, owning or having possession, custody or control of, personal property in the Territory, whether entitled to exemption or not, and every person subject to taxation in respect of personal property held during the preceding calendar year, shall, during the month of January or February of the assessment year, or at such other times as may be required under the provisions of this chapter, file a return of all personal property belonging to such person, or of which he had possession, custody or control on the first day of January of the assessment year, or during the preceding year, as the case may be, setting forth such personal property in bulk under reasonable classifications, outlining the character and value of each classification, in such form as may be prescribed by the tax commissioner from time to time so as to elicit a full disclosure of all such taxable personal property of the taxpayer, as for example: Personal property constituting stock in trade held for sale in the Territory of Hawaii:

1. Goods, wares and merchandise	\$.....
Personal property not constituting stock in trade held for sale in the Territory of Hawaii:	
2. Raw materials and supplies	\$.....
3. Agricultural products—sugar	\$.....
pineapples canned	\$.....
coffee: clean—	\$.....
parchment-cherry	\$.....
4. Machinery and equipment:	
(a)	\$.....
(b)	\$.....
(c)	\$.....
(d)	\$.....
(e)	\$.....
5. Furniture and fixtures	\$.....
6. Growing crops to mature and be harvested during taxable year	\$.....
7. Ships and vessels including sampans and boats	\$.....
8. Other personal property subject to tax:	
(a)	\$.....
(b)	\$.....
Personal property in the possession or control of the above named as bailee (where the owners are non-residents of the Territory of Hawaii) pledgee or consignee, and not otherwise returned.	
(Describe the property by its appropriate classification and refer to supporting schedules, if any.)	
9.	\$.....
10.	\$.....
Total	\$.....

Forms shall be prescribed by the commissioner pursuant to the terms of this act and shall be signed and sworn to by the taxpayer or his duly accredited representative. Such return shall be filed with the assessor of the division in which the personal property is or was situated or held, or with the tax commissioner at Honolulu as may be required or permitted by the tax commissioner.

2. The filing of such return shall be deemed to constitute a conditional assessment of the taxable personal property covered thereby upon the basis of the valuations therein set forth, at the rate of one percentum, subject to subsequent re-assessment at such different valuation as may be thereafter found by the commissioner to be the assessable value determined in the manner provided by this chapter, and at such increased rate as may be thereafter determined, pursuant to the provisions of this chapter.

3. The tax commissioner may permit, at the request of the taxpayer, the filing of a gross tentative return of personal property and extend the time for filing the regular return for such period or periods, not exceeding ninety (90) days in all, as may be allowed by the commissioner. Such tentative return, in all respects necessary for rate making and for the initial payment, shall be treated as a regular return, provided, however, that if the valuation shown in the tentative return shall be less than the valuation thereafter shown on the regular return, a further payment shall be made upon the filing of the regular return which, together with the payment made upon the filing of the tentative return, shall equal one per centum (1%) of the taxable value so returned, provided, further, that any difference between the valuation shown by the tentative return and the valuation shown by the regular return shall not affect the tax rate." [L. 1933-4, c. 9, s. 9; R. L. 1935, s. 2105; am. L. 1935, c. 153, s. 7; am. L. 1939, c. 208, s. 16.]

Section 17. Effective date; application to pending litigation. This Act shall take effect upon its approval. No tax litigation now pending shall be dismissed nor shall the issues therein be narrowed by reason of any amendments made by this Act, and the provisions of this Act as to the jurisdiction of the Boards and Tax Appeal Court and the scope of the appeal, as well as other procedural matters, shall apply to any appeal now pending; provided, that where further or different information is required by this Act to be stated in a notice of appeal or a certificate of appeal such notice or certificate shall be amended before further hearing of such appeal and within ninety days after the approval of this Act, so as to furnish such information, and in the absence of such amendment of the notice of appeal the appeal shall be deemed to bring up for determination only such issues as could have been heard and determined had this Act not become effective.

(Approved May 12, 1939.) **H.B. 182, Act 208.**

[A-34] An Act Relating to Taxation; Amending Chapter 61 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to be Numbered 1959A, Relating to Refunds; Amending Chapter 4 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to be Numbered 82A so as to Make a Tax Clearance a Prerequisite for the Final Settlement of Public Contracts; Amending Act 141 (Series A-44) of the Session Laws of Hawaii 1935, as Amended, Relating to General Excise Taxes, by Amending Section 13 Thereof; Amending Chapter 65 of the Revised Laws of Hawaii 1935, as Amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, Relating to Income Tax, by Amending Sections 2030, 2031, 2032, 2033, 2034 and 2040 Thereof, Relating to the Imposition and Computation of Tax and Returns; Amending Chapter 67 of the Revised Laws of Hawaii 1935, as Amended, Relating to Personal Property Tax, by Amending Section 2115 Thereof Relating to Assessments and Payments of Tax; Amending Chapter 68 of the Revised Laws of Hawaii 1935, Relating to Poll Tax, by Amending Sections 2126, 2127, 2129 and 2131 Thereof and Providing Further Penal Offenses Under Said Chapter; Amending Act 209 of the Session Laws of 1933 (Chapter IV of the Appendix to the Revised Laws of Hawaii 1935), as Amended, by Amending Section 14 Thereof with Respect to Penalties and Interest; and Amending Act 243 (Series D-167) of the Session Laws of Hawaii 1937, by Amending Section 54 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 61 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered 1959A to read as follows:

"Sec. 1959A. Refunds. (a) In the event of adjustments of the tax rolls or assessment lists on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors and errors in calculation, which adjustments shall have been properly audited and the legality of the transactions determined by the auditor acting in conjunction with the attorney general in each case, the same may be entered upon the records although the full amount appearing upon the records prior to such adjustment has been paid, subject to the time limitations hereinafter provided.

(b) There may be refunded in the manner and subject to the time limitations hereinafter provided: (1) any amount collected in excess of the amount appearing upon the records as adjusted, or (2) any amount constituting a duplication of payment in whole or in part.

(c) All refunds shall be paid only upon a form to be known as a 'Refund Voucher', prepared by the tax collector. Such refund vouchers shall set forth all the details of each transaction, shall be approved by the tax commissioner and the tax collector, and shall be forwarded to the auditor from time to time. The auditor shall issue his warrant for the payment of any such refund out of the tax clearance fund, provided, however, that if the person entitled to the refund is delinquent in the payment of any tax, the auditor, upon demand of the collector and after notice to such delinquent taxpayer, shall withhold the amount of such delinquent taxes, together with penalties and interest thereon, from the amount of such refund and pay the same to the collector.

(d) No such adjustment shall be entered on the records or refund authorized except within six months after the end of the calendar year in which the amount to be refunded was paid, or within six months after the effective date of this Act, unless a written application for such adjustment or refund shall be filed within such period, or the proposed adjustment shall have been submitted for auditing during such period.

(e) The provisions of this section shall apply to all taxes except those collected under a statute which contains a provision for refunds."

Section 2. Chapter 4 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered 82A to read as follows:

"Sec. 82A. Prerequisite for final settlement of contracts with the Territory or subdivisions thereof. All territorial, county and city and county officers and agents making contracts on behalf of the Territory of Hawaii or any political subdivision thereof shall withhold payment in the final settlement of such contracts until the receipt of a tax clearance from the tax commissioner to the effect that all delinquent taxes levied or accrued under territorial statutes against the contractor have been paid, provided, however, that if when notice of assignment of any such contract is given to the Territory or any subdivision thereof by the assignee of such contract, such assignee is not informed, upon his request to the tax commissioner for such information, that there are any delinquent taxes due to the Territory or subdivision thereof, then, and in such event, the provisions of this section shall not apply as to so much of the amount payable under such contract as is owing to such assignee."

Section 3. Act 141 (Series A-44) of the Session Laws of Hawaii 1935, as amended by Act 128 (Series A-51) of the Session Laws of Hawaii 1937, and by Act 202 (Series A-52) of the Session Laws of Hawaii 1937, is hereby further amended by amending section 13 [Sec. 2025m.] thereof by deleting the words "thirty days" appearing in the eighth line of said section, and substituting therefor the following:

"calendar month or fraction thereof".

Section 4. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, is hereby amended by amending section 2030 thereof by adding at the end of said section 2030 the following:

"Personal services performed in the course of a local employment' include all services wherever performed in the course of, in furtherance of, or in connection with the taxpayer's service, employment, occupation, trade, or business carried on within the Territory, and incidental thereto."

Section 5. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, is hereby further amended by amending section 2031 thereof by inserting a "comma" in the fourth line of said section after the word "Territory" and further inserting the following:

"or income included in gross income by section 2033."

Section 6. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of Hawaii

1935, is hereby further amended by amending section 2032 thereof by inserting in the third line of said section after the word "Territory" the following:

"or income included in gross income by section 2033."

Section 7. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of 1935, is hereby further amended by amending section 2033 thereof by amending subsection 1 of said section to read as follows:

"1. Gross income includes all gains, profits and income derived or received from any and every source in the Territory, whether or not connected with a trade or business, and also all gains, profits and income derived or received from all property owned and every trade or business carried on in the Territory and also all commissions, fees, wages, salaries, bonuses, and every and all other kinds of compensation paid for or attributable to personal services performed within the Territory, or performed without the Territory by a resident of the Territory and not subjected to income tax in any other jurisdiction (other than for federal tax), or performed in the course of a local employment as defined in this chapter, and also all dividends received having a situs for taxation within the Territory."

Section 8. Chapter 65 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending section 2034 thereof by adding to subsection 2 thereof a new paragraph to be designated (f) to read as follows:

"(f) If the status of the taxpayer, insofar as it affects the personal exemption or exemptions of the taxpayer, changes during the taxable year, such personal exemption or exemptions shall be apportioned, under rules and regulations prescribed by the tax commissioner, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month."

Section 9. Chapter 65 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending subsection 1 of section 2040 thereof by adding at the end of subsection 1 the following:

"The commissioner may require that if any person or persons actually prepare a return for another person, such form of affidavit on the return as may be prescribed by the commissioner shall be furnished, and the commissioner by regulation may define the classes of persons to whom this provision shall apply."

Section 10. Chapter 67 of the Revised Laws of Hawaii 1935, as amended by Act 153 (Series A-33) of the Session Laws of 1935, is hereby further amended by amending section 2115 thereof to read as follows:

"Sec. 2115. Assessment of unreturned or omitted property. If any person required under this chapter to make returns shall refuse or neglect to make such returns, or shall decline to take oath to the accuracy thereof, or shall omit any property from a return, the commissioner shall make the assessment according to the best information available and shall add to the assessment or tax lists for the year or years during which the same was not taxed, the property unreturned or omitted. Likewise, if for any other reason, any personal property or any taxes shall have been omitted from the assessment

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lists for any year or years, the commissioner shall add to such lists such omitted property or taxes. Notice of such proposed action shall be given to the owner, if known, within ten days after such assessment or addition, by mailing the same addressed to him at his last known address or place of residence. Any owner desiring a review of such assessment or such addition may appeal to the board of review of the division in which the property is located by filing with the assessor a written notice thereof at any time within thirty days after the date of mailing such notice, or may appeal to the tax appeal court by filing written notice of appeal with, and paying the necessary costs to, such court within said period and in the manner prescribed by section 1937.

A penalty of ten per centum shall be added by the assessor to the amount of any assessment made by him pursuant to the provisions of this section, which penalty shall be and become a part of such assessment so made; provided, that no such penalty shall be imposed where the failure to assess or tax such property was not due to the refusal or neglect of the owner to return the same or take oath to the accuracy of his return.

For the purpose of determining the date of delinquency of taxes assessed under this section such taxes shall be deemed delinquent if not paid within 30 days after the date of mailing of the notice or if assessed for the current assessment year, within 30 days after the date of mailing such notice or on or before the next instalment payment date if any for such taxes, whichever is later.

No such assessment of unreturned or omitted property for any year, however, shall be made after the expiration of three years after the end of such year." [L. 1935, c. 153, s. 11; R. L. 1935, s. 2115; am. L. 1939, c. 213, s. 10.]

Section 11. Chapter 68 of the Revised Laws of Hawaii 1935 is hereby amended by amending section 2126 thereof by adding to paragraph 3 of said section the following:

"For the purposes of this section the word 'month' shall mean a calendar month."

Section 12. Chapter 68 of the Revised Laws of Hawaii 1935 is hereby further amended by amending subsection 1 of section 2127 thereof to read as follows:

"Sec. 2127. Employer required to withhold and pay tax when; duties, rights. 1. Any employer making payments, during the period of January 1 to June 20 of any calendar year, to any person taxed under section 2125, or to any female person, whether or not her independent income for such year is or may be less than two hundred dollars, of commissions, fees, wages, salaries, bonuses and every and all other kinds of compensation paid for or attributable to personal services performed within the Territory, other than compensation of the nature mentioned in paragraph 2 herein, shall withhold from such compensation the tax of five dollars and shall, on or before July 1 of such year, but not later than thirty days after such amount was withheld, pay the amount so withheld to the officer authorized by law to collect income taxes in the taxation division in which the compensation was paid. Any amount so withheld on or before June 20 of the calendar year for which the tax is due, by an employer from the compensation due an employee, shall be deemed to have been paid, insofar as concerns the liability of the employee, before the delinquent date therefor, and any amount paid on or before July 1 of such year by the employer but not later than thirty days after such amount was

withheld, on account of the poll tax due from such employee, shall be deemed to have been paid before the delinquent date therefor, insofar as concerns the liability of the employer. Each employer, whenever any amount is withheld from the compensation due an employee on account of the tax, shall issue to the employee a receipt in such form as shall be prescribed or approved by the tax commissioner, setting forth the amount so withheld and the purpose for which the same is withheld."

Section 13. Chapter 68 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 2129 thereof to read as follows:

"Sec. 2129. Penalty for failure to withhold. Any employer failing to withhold compensation from any employee in the manner and for the purposes required by this chapter, or failing to pay over the amounts so withheld within the time required by this chapter, shall, in addition to all other penal provisions which may be applicable, be guilty of a misdemeanor, and shall also be personally liable to pay to the Territory the amount which he should have so withheld from the employee, in the event of his failure to so withhold compensation, not exceeding, however, the amount of compensation paid to the employee by him; provided, that the employer may recover from such employee any amount which he has been required to pay and has paid to the Territory under this section. Penalties and interest as provided by section 2126-3 shall accrue upon all amounts withheld and not paid over within the time required by this chapter, and upon all amounts constituting a personal liability of the employer, the date of delinquency to be determined in accordance with section 2127." [L. 1932, 2d, c. 45, pt. of s. 3; R. L. 1935, s. 2129; am. L. 1939, c. 213, s. 13.]

Section 14. Chapter 68 of the Revised Laws of Hawaii 1935 is hereby further amended by amending section 2131 thereof by inserting in the second line thereof after the word "require" the following:

"but not later than thirty days after the withholding of any compensation,".

Section 15. Act 209 of the Session Laws of Hawaii 1933 (**chapter IV of the appendix** to the Revised Laws of Hawaii 1935), as amended, is hereby further amended by adding at the end of section 14 thereof the following:

"The provisions of section 2046, paragraph (d) of subsection 1, and any amendments thereof, with respect to penalties and interest, shall apply to the taxes imposed by this Act."

Section 16. Act 243 (Series D-167) of the Session Laws of 1937 is hereby amended by amending section 54 thereof by deleting from the seventh line of said section the words "from the date of delinquency" and by adding at the end of said section the following:

"Such interest shall be computed from the first day of the month following the date of delinquency. For the purposes of this section the word 'month' shall mean a calendar month."

Section 17. Constitutionality. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be de-

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clared unconstitutional or invalid. If the application of any provision of this Act to any person or circumstance is held invalid, the application of such provision to other persons or circumstances shall not be affected thereby.

Section 18. Effective date. This Act shall take effect upon its approval, provided, however, that this Act shall not become law and shall not become effective unless and until such time as House Bill No. 182 of the present session of the legislature is enacted into law and becomes effective.

(Approved May 12, 1939.) **S.B. 405, Act 213.**

[A-35] An Act to Amend Section 1962 of the Revised Laws of Hawaii 1935, Relating to Publication of Lists of Delinquent Taxes and to Uncollectible Delinquent Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1962 of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series A-46) of the Session Laws of Hawaii 1937, is hereby further amended by amending the second paragraph thereof to read as follows:

"There is hereby created in and for each taxation division a committee, to be known as the 'divisional committee', consisting of the tax commissioner, the assistant tax commissioner, and the divisional tax collector for such division.

Each tax collector may from time to time prepare lists of all taxes delinquent in his division which in his judgment are uncollectible, and submit such lists to the divisional committee of his division. Such thereof as the committee finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the collector, and the collector shall thereupon be released from any further accountability for the collection thereof; provided, however, that no account shall be so deleted until it shall have been delinquent for at least five years; provided, further, that any items so written off may be transferred back to the delinquent tax roll if the divisional committee concerned shall find that the alleged facts as previously presented to it were not true, or that such items are in fact collectible."

Section 2. This Act shall take effect upon its approval.

(Approved May 6, 1939.) **S.B. 288, Act 182.**

DELINQUENT TAX BUREAU.

[A-36] An Act to Amend Section 1968 of the Revised Laws of Hawaii 1935, as Amended, Relating to Delinquent Tax Bureau.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1968 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

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SERIES A-36.—ACT 121.]

SERIES A-37.—ACT 29.]

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"Sec. 1968 Assistants. The commissioner may appoint and at his pleasure remove such assistants as may be found necessary to the bureau, whose duties shall be determined by the collector of delinquent taxes, under the direction of the tax commissioner." [L. 1933, c. 135, s. 4; R. L. 1935, s. 1968; am. L. 1935, c. 137, s. 1; am. L. 1939, c. 121, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1939.) **H.B. 233, ACT 121.**

EXEMPTIONS.

[**Sec. 1971. Condition precedent to certain exemptions.** Amended by Act 29, infra, page 70.]

[A-37] An Act Amending Section 1972 of the Revised Laws of Hawaii 1935, as Amended by Act 103 (Series A-48) Session Laws of 1937, Relating to Exemption of Coffee Lands and Property and Coffee from Taxation, and Amending Section 1971 of the Revised Laws of Hawaii 1935, Relating to Conditions Precedent to Certain Tax Exemptions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1972 of the Revised Laws of Hawaii 1935, as amended by Act 103 (Series A-48) Session Laws of 1937, is hereby amended to read as follows:

"Sec. 1972. Coffee lands and property and coffee.

1. The following lands, which are actually and solely used in the planting of coffee and in the cultivation thereof after such planting on January 1 of the tax year for which the exemption is claimed, shall be exempted from taxation for any of the years 1939 to 1948, inclusive, during which the requirements of this section for such exemption are fulfilled, namely:

(a) Lands under lease on the date when the 1939 Act amendatory of this section takes effect, if said lease or other contractual obligation then in effect requires the tenant to pay the taxes on said lands, and if a reduction of rental for said lands for the tax year for which the exemption is claimed, in an amount at least equal to the exemption from the taxes on said lands provided by this section, shall be made by the lessor to the tenant, as evidenced by a written instrument filed with the assessor on or before January 31 of such tax year.

(b) Lands leased before or after the date when said 1939 amendatory Act takes effect, and actually and solely used in the cultivation thereof after such planting on January 1 of the tax year for which the exemption is claimed, for which no rental in any form (other than the payment of taxes on said lands) is chargeable to or payable by the tenant of such lands for said tax year, or upon which the rental, if any, shall be cancelled and forgiven by the lessor, as evidenced by a written instrument filed with the assessor on or before January 31 of said tax year.

(c) Lands held under leases executed before the effective date of Act 103 (Series A-48) Session Laws of 1937, and actually and solely used in the planting of coffee and in the cultivation thereof after such planting on January 1 of the tax year for which the exemption is claimed, for which lands the lessor, (1) either under the original lease, or by subsequent agreement made either before or after said effective date, has for such tax year assumed the payment of taxes thereon, and (2) has also either before or after said effective date reduced the rental chargeable to the tenant in an amount at least commensurate with such taxes, as evidenced by a written instrument filed with the assessor on or before January 31 of such tax year.

(d) Lands actually and solely used by the owner of such lands in the planting of coffee and in the cultivation thereof after such planting on January 1 of the tax year for which the exemption is claimed.

2. All coffee grown in the Territory, and all growing crops of coffee, owned by the grower thereof, shall be exempt from all property taxes for each of the years 1939 to 1948, inclusive.

3. All personal property, actually and solely used in the planting, cultivation and processing (including all processing up to and including the stage of parchment coffee, but not including husking such parchment, or any subsequent processing) of coffee grown in the Territory for commercial purposes, shall be exempt from all property taxes for each of the years 1939 to 1948, inclusive.

4. For the purposes of this section the word 'tenant' shall include any lessee, sublessee, tenant, subtenant, assignee, or other person holding, directly or indirectly, from, of, under or through the owner of such lands, and the word 'lessor' shall include any person to whom rental, if any, is payable.

5. Provided, however, that none of the exemptions allowed by this section shall apply to any tax year after 1939 if the average wholesale purchase price of parchment coffee paid to the planters shall have exceeded ten cents (\$10) per pound during the preceding year." [L. 1929, c. 130, s. 1; R. L. 1935, s. 1972; am. L. 1937, c. 103, s. 1; am. L. 1939, c. 29, s. 1.]

Section 2. Section 1971 of the Revised Laws of Hawaii 1935, is hereby amended by inserting, between the word "section" and the figure "1974" in the second line thereof, the following: "1972".

Section 3. This Act shall take effect upon its approval, provided, that for the tax year 1939 there shall be substituted for the date January 31 in said section 1972 the date June 1, 1939, and claimants shall have up to and including June 1, 1939, within which to comply with the provisions of section 1971.

(Approved April 1, 1939.) H.B. 25, ACT 29.

EXEMPTIONS.

SERIES A-38.—Act 105.]

SERIES A-39.—Act 211.]

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[A-38] An Act to Exempt Form Taxation All Property Actually and Solely Used in the Manufacture of Bagasse Products.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1972A.] Section 1. [Bagasse.] All property, both real and personal, actually and solely used in connection with the manufacture of board, paper, building material or any or all other articles and products from sugar cane bagasse shall be exempt from all property taxes for a period of two years from Decemebr 31, 1939.

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1939.) **H.B. 170, Act 105.**

[A-39] An Act Amending Section 1976 of the Revised Laws of Hawaii 1935, Relating to Public Property Exempt from Taxation by Adding Thereto a New Paragraph to be Numbered 5 Relating to Real Property, Possession of Which is Obtained in Certain Eminent Domain Proceedings; Amending Section 1979 of the Revised Laws cf Hawaii 1935, Relating to the Remission of Taxes Upon Real Property Acquired for Public Purposes so as to Provide for the Remission of Such Taxes From the Date of Change of Possession in Case of Certain Eminent Domain Proceedings; Amending Chapter 3 of the Revised Laws of Hawaii 1935, as Amended by Act 184 (Series A-1) of the Session Laws of Hawaii 1937, Relating to Eminent Domain, by Adding a New Section to be Numbered 68A Providing for Remission of Taxes From the Date of Change of Possession in Case of Certain Eminent Domain Proceedings and Providing the Procedure with Respect to the Lien for Real Property Taxes in Case of Such Proceedings; and Providing for Refunds in Certain Cases.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1976 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new paragraph to be numbered 5, to read as follows:

"5. Subject to the provisions of subsection 3 (b) of section 68A of the Revised Laws of Hawaii 1935, enacted by this Act, any real property in the possession of the Territory or any county or city and county which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the Territory or such county or city and county, provided the fact of such possession has been certified to the tax commissioner as provided by said section 68A, or shall be so certified not later than January 31 of the year for which such exemption is claimed."

[Sec. 1977. Specific property exempt. Amended by Act 249, infra, page 74.]

Section 2. Section 1979 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto the following:

"Provided, further, that in case the Territory or any county or city and county takes possession of real property which is the subject of eminent domain prceedings commenced for the acquisition of the fee

simple estate in such land by the Territory or such county or city and county, taxes are authorized to be remitted as provided in section 68A, Revised Laws of Hawaii 1935, enacted by this Act, subject, however, to the provisions of subsection 3 (a) of said section 68A."

Section 3. Chapter 3, of the Revised Laws of Hawaii 1935, as amended by Act 184 (Series A-1) of the Session Laws of Hawaii 1937, is hereby amended by adding thereto a new section to be numbered 68A, to read as follows:

"Sec. 68A. Real property tax lien, remission of taxes. 1. Whenever an eminent domain proceeding is brought by the Territory or any county or city and county for the purpose of acquiring the fee simple estate in real property neither the tax commissioner, tax collector, or any other tax official shall be joined as a party respondent merely on account of any lien for real property taxes, provided however, that the tax commissioner or tax collector may intervene in such proceeding as provided by section 61, Revised Laws of Hawaii 1935. Upon the filing of the petition the plaintiff shall furnish a copy thereof to the tax commissioner or tax collector and shall also furnish him a copy of any amended petition. In the event that any moneys are paid into court by the plaintiff in the course of such eminent domain proceeding, the plaintiff or its attorney shall certify the fact of such payment to the tax commissioner or tax collector and shall further certify the date when possession of the land on account of which such payment was made was acquired by the plaintiff, or in the event of entry of a final order of condemnation without previous possession of such land, shall certify the date of the final order of condemnation. A copy of such certificate shall be filed as part of the record in such case. In the event of a final determination granting the application of any party for the payment to him of any of the moneys so paid into court, or if a final order of condemnation has been entered then immediately upon receipt of such certificate, the tax commissioner or tax collector shall certify to the clerk of the court in which such eminent domain proceeding is pending the amount of real property taxes, penalties and interest constituting a lien upon the land so coming into the possession of the plaintiff, or constituting a lien upon the land which was the subject of such final order of condemnation, as the case may be, and in computing the amount of the lien the tax commissioner or tax collector shall cause the taxes due on the parcel of land or portion of a parcel of land so coming into the possession of the plaintiff or made the subject of such final order of condemnation, to be remitted for the balance of the taxation period or year from and after the date of possession or, in the event of entry of a final order of condemnation without previous possession by the plaintiff, from and after the date on which the final order of condemnation was entered, as the case may be. The tax commissioner, tax assessor, tax collector and other tax officials are hereby authorized to remit such taxes in the manner provided by this section upon the receipt of such certificate. The amount of such taxes, penalties and interest so certified shall be paid to the tax official making such certificate by the clerk of the court from the moneys paid into court, and no clerk shall distribute any moneys so paid into court without the consent of the tax commissioner or tax collector, unless such certificate has been furnished. The clerk shall apportion such tax lien among the parties entitled to receive the moneys so paid into court in accordance with the direction of the court. Any of such parties may petition the court for determination of the correct amount of taxes, making the tax commissioner or tax collector a party

to such proceeding. Upon the conclusion of such proceeding the proper tax official shall make a new certificate in accordance with the final decision upon such matter, and showing additional penalties and interest, if any.

2. It is further provided that in the event possession of any land which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such lands is obtained by the Territory or a county or city and county, whether or not any moneys are paid into court at the time, the plaintiff or its attorney upon the request of any interested person shall certify the date of such possession to the tax commissioner or tax collector, and upon receipt of such certificate the tax commissioner, tax collector or tax assessor and other tax officials are authorized to remit the taxes in the manner herein-before provided.

3. It is provided further that if (1) such possession be abandoned at any time prior to the entry of final order of condemnation, or (2) if such proceedings shall be abandoned or discontinued before reaching final judgment, or (3) if the final judgment shall not provide for the taking of such land for public use, or (4) if final order of condemnation shall not be entered within two years after final judgment:

(a) The amount of taxes remitted in accordance with this section for the balance of the taxation period or year from and after the event enumerated in items (1), (2), (3), or (4) above shall be restored to the tax lists and tax rolls and shall be deemed delinquent if not paid within ten days after the mailing of notice and demand for payment; and

(b) If such property has not been assessed for taxes in any year by reason of such possession by the plaintiff such property shall be assessed for taxes in the manner provided in the case of property omitted from taxation, and the taxes due on such property for the balance of the taxation period or year from and after the event enumerated in items (1), (2), (3), or (4) above shall be placed on the tax lists and tax rolls and collected as in the case of property omitted from taxation."

Section 4. Effective date, pending proceedings, refunds. This Act shall take effect upon its approval and shall apply to all eminent domain proceedings then pending, whether or not possession of such land or payment of such moneys occurred before the effective date of this Act. The requirement of timely filing of a certificate of possession to secure the exemption provided by section 1 of this Act, amending section 1976 of the Revised Laws of Hawaii 1935, shall apply to tax years commencing with the year 1940, to the end that in all pending proceedings taxes shall be remitted in the manner provided in this Act for all tax years or parts of years prior to 1940 from and after the date heretofore provided, when such date is certified to the tax commissioner or tax collector in the manner provided by this Act. In the event that taxes have been paid prior to the effective date of this Act upon land which is the subject of any such pending proceeding without such remission of taxes, the tax commissioner or tax collector, upon the application of any interested person made within six months after the effective date of this Act, is authorized to refund the amount of taxes so remitted, if any, upon proper certification as to the date from which such taxes should be remitted,

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[SERIES A-40.—Act 249.

pursuant to this Act, together with any penalty or interest collected on account of the taxes remitted, out of delinquent real property tax collections for the appropriate county. Such refund shall be paid into court, and the court shall determine the person or persons entitled thereto.

(Approved May 12, 1939.) **S.B. 350, Act 211.**

[A-40] An Act to Amend Section 1977 of the Revised Laws of Hawaii 1935, as Amended, Relating to Exemptions from Taxation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsections 2 and 33 of section 1977 of the Revised Laws of Hawaii 1935, as amended, are hereby amended to read as follows:

“2. The Queen’s Hospital, Kapiolani Maternity and Gynecological Hospital, the Leahi Home, or any hospital which maintains a free ward of not less than eight (8) free beds; the property of all hospitals exempted from taxation being limited to that actually in use for hospital purposes.”

“33. All real property owned or used exclusively by any boy scout or girl scout organization in the Territory of Hawaii.”

Section 2. Subsections 47 and 48 of section 1977 of the Revised Laws of Hawaii 1935, as amended, are hereby amended to read as follows:

“47. The property of the G. N. Wilcox Memorial Hospital at Lihue, Kauai, which is actually and solely used for hospital purposes. Key to taxation maps: Fourth Division, Zone 3, Sec. 7, Plat 1, Parcel 17.

48. All property in the county of Hawaii owned by the trustees of the Hilo Boarding School so long as the same is used exclusively for eleemosynary purposes. Key to taxation maps: Third Division, Zone 2, Sec. 2, Plat 4, Parcel 16, and Zone 2, Sec. 3, Plat 20, Parcel 1.”

Section 3. Section 1977 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto the following new subsections to read as follows:

“49. All property in the county of Hawaii owned by the Waiakea Social Settlement so long as the same is actually and solely used for eleemosynary purposes. Key to taxation maps: Third Division, Zone 2, Sec. 1, Plat 2, Parcel 12.

50. All the property of the Holy Ghost of St. John the Baptist, situated at Kalhi-kai, Honolulu, so long as the same is used solely for religious purposes. Key to taxation maps: First Division, Zone 1, Sec. 2, Plat 2, Parcel 99.

51. All of the property of the Daughters of Hawaii so long as the same is used solely for eleemosynary purposes. Key to taxation maps: First Division, Zone 2, Sec. 2, Plat 34, Parcel 27; Zone 2, Sec. 6, Plat 24, Parcel 60; Zone 7, Sec. 1, Plat 1, Parcel 4; Third Division, Zone 7, Sec. 5, Plat 7, Parcel 20; and Zone 7, Sec. 9, Plat 12, Parcel 17.

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52. All of the property of the Mamalahoa Chapter No. 2, Order of Kamehameha, Hilo, Hawaii, so long as the same shall be used exclusively for eleemosynary purposes. Key to taxation maps: Third Division, Zone 2, Sec. 1, Plat 21, Parcel 43.

53. All of the property of the Molokai Community Center so long as the same is actually and solely used for eleemosynary purposes. Key to taxation maps: Second Division, Zone 5, Sec. 3, Plat 2, Parcel 5.

54. All real and personal property owned or used exclusively by the American Legion in the Territory of Hawaii.

55. All of the property of the Veterans of Foreign Wars actually and solely used for eleemosynary purposes."

Section 4. This Act shall take effect as of January 1, 1939.

(Approved May 17, 1939.) **S.B. 137, ACT 249.**

CHAPTER 64. FUEL TAX.

[A-41] An Act to Amend Section 2013 of the Revised Laws of Hawaii 1935, as Amended by Act 189, Series A-50, of the Session Laws of Hawaii 1937, Relating to the Fuel Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2013 of the Revised Laws of Hawaii 1935, as amended by Act 189, Series A-50, of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

"Sec. 2013. **Distributors to pay certain license taxes.** (a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the treasurer of four cents for each gallon of liquid fuel (including diesel oil) refined, manufactured, produced or compounded by such distributor and sold or used by him in the Territory, or imported by such distributor, or acquired by him from persons not licensed distributors, and sold or used by him in the Territory;

(b) Provided, however, that subject to the following provisions, the tax so payable by a distributor with respect to diesel oil shall be only one cent for each gallon of such diesel oil which is used, or sold for, the following purposes:

(1) Used by the distributor for purposes other than operating a motor vehicle upon the public highways of the Territory, as evidenced by an affidavit setting forth such fact filed by the distributor, at the same time the return covering such diesel oil is filed, with the treasurer.

(2) Sold by the distributor for intended use by the purchaser for purposes other than resale or operating a motor vehicle upon the public highways of the Territory; such intended use to be evidenced by affidavit of the purchaser setting forth in general terms the intended use or uses and stating that such diesel oil is intended to be

used only for purposes other than operating a motor vehicle upon the public highways of the Territory.

(c) Provided, further, that the treasurer shall reimburse and pay to persons other than purchasers covered by paragraph (2) of subsection (b) of this section three cents of the tax paid by them either directly or indirectly under the provisions of subsection (a) of this section upon diesel oil used by such persons for any purposes other than operating a motor vehicle upon the public highways of the Territory, provided proper claim; for such refund have been filed within ninety days after the payment of such tax.

(d) Provided, also, that the tax shall not be collected in respect to any liquid fuel shown to the satisfaction of the treasurer to have been sold for use in and actually delivered to, or sold in, the county of Kalawao.

(e) Any affidavit or claim required by this section must be duly sworn to or verified by the purchaser or claimant, as the case may be, or by one of the principal officers of the purchaser or claimant if it be a corporation, upon forms prescribed by the treasurer. The affidavit or claim must state such facts relating to the purchase, importation, manufacture, production, use or intended use of diesel oil by the purchaser or claimant as the treasurer deems necessary. The affidavits made by a purchaser of diesel oil shall be preserved for two years by the distributor to whom the same are made and shall be delivered to the treasurer if demanded by him within such period.

(f) Any person who purchased diesel oil under an affidavit as provided in paragraph (2) of subsection (b) of this section and who uses any of the same in the operation of any motor vehicle upon the public highways in the Territory, shall not later than the 20th day of the month following the month of such use, make a return to the treasurer showing the total number of gallons of diesel oil so used during the preceding calendar month, and at the same time shall pay an additional tax of three cents for each gallon of diesel oil so used. This paragraph shall not be deemed to exonerate any person from prosecution who falsely or fraudulently purchases diesel oil under an affidavit made pursuant to said paragraph (2), knowing or intending at the time of such purchase that any of such diesel oil is to be used for the operation of a motor vehicle upon such public highways." [L. 1932, 1st, c. 19, s. 4; am. L. 1933, c. 133, s. 2; R. L. 1935, s. 2013; am. L. 1937, c. 189, s. 1; am. L. 1939, c. 254, s. 1.]

Section 2. This Act shall take effect from and after July 1st, 1939.

(Approved May 17, 1939.) **S.B. 22, ACT 254.**

CHAPTER 64A. GENERAL EXCISE TAX LAW.

[A-42] An Act Relating to Taxation, Revising the General Excise Tax Law and the Unemployment Relief and Welfare Act, so as to Coordinate the Same and to Broaden the Tax Base and to Provide for Increased Revenues Therefrom, and Amending All Inconsistent Laws to Conform Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii.

Section 1. Act 141, Series A-44, of the Session Laws of Hawaii 1935 (chapter 64-A of the Revised Laws of Hawaii 1935), as amended by Act 128, Series A-51, and Act 202, Series A-52, of the Session Laws of Hawaii 1937, is hereby further amended in the following respects:

1. By deleting subdivision E of subsection I of section 2 (**section 2025B** of said Revised Laws) thereof, the intent of this paragraph being to render the various types of business defined in said deleted provision taxable under such other provisions of said Act 141 as may by their terms be applicable thereto.

2. By substituting for the words "one-half of one per cent (½%)", in subdivision G of subsection I of section 2 (**section 2025B** of said Revised Laws) thereof, the words "one and one-quarter per cent (1¼%)".

Section 2. The rate amended by subsection 2 of section 1 of this Act shall be subject to the provisions of subsection III of section 2 [**Sec. 2025B**] of said Act 141 (subsection III of **section 2025B** of said Revised Laws), as amended, relating to increase or decrease of the rates.

Section 3. **Chapter IV of the Appendix** to said Revised Laws, as amended, is hereby further amended in the following respects:

1. By substituting, in lieu of the period at the end of that certain paragraph of section 1 of said chapter which defines "compensation", a comma and the following words:

"and shall also include, without limitation of the foregoing definition, all fees, commissions, bonuses, and all other kinds of compensation, paid to trustees or directors of trusts, unincorporated associations or corporations or to executors, administrators, receivers, masters, commissioners, and the like, for their services as such, where such compensation is not included in the measure of a tax payable by such person under the general excise tax law."

2. By amending that certain paragraph of said section 1 which defines "dividends", to read as follows:

"Dividends" means any distribution, whether in money or in other property, made by a corporation, national banking association, insurance company, association, or joint stock company, to its shareholders or holders of an interest therein on account of ownership of such shares or interest."

3. By adding to said section 1 at the end thereof the following new paragraph:

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"References to 'chapter 65' or to any section of said chapter, shall be deemed to mean said chapter or section as the same exists, or may be amended from time to time in the future."

4. By substituting for the words "one-half of one per centum thereof", in section 4 thereof, the words "the amount of the tax imposed by this chapter in reference to such compensation"; and by adding to said section 4, in lieu of the period at the end thereof the following:

"and shall also be liable to pay to the Territory the amount which he should have so withheld from the employee; provided that the employer may recover from such employee any amount which he has been required to pay and has paid to the Territory out of such employer's own funds under this provision."

5. By amending section 9 thereof to read as follows:

"Sec. 9. Tax on dividends. There shall be assessed, levied collected and paid for each month a tax, at the same rate per centum as shall be fixed for such month pursuant to the provisions of section 3 of this chapter as to compensation, upon the amount of all dividends paid during the month by any company, local or foreign."

6. By substituting for the words "one-half of one per centum thereof" in the fifth and sixth lines of section 10 thereof, the words "the amount of the tax imposed by this chapter in reference to such dividends"; and by adding to said section 10, in lieu of the period at the end thereof, the following:

"and shall also be liable to pay to the Territory the amount which it should have so withheld."

7. By amending the last sentence of section 11 thereof to read as follows:

"Every return shall be verified upon oath or affirmation, or executed before two subscribing witnesses (as may be permitted by rules of the commissioner) by the employer or other person liable to make the return, or by some one authorized to do so in behalf of such person, all in compliance with rules prescribed by the commissioner; provided, that the commissioner in any event may require that any particular return which has been executed before such subscribing witnesses be also verified by oath or affirmation, and it shall be the duty of the person liable to make such return, upon request of the commissioner, to verify or cause such return to be duly verified.

Every person who shall wilfully or knowingly make any false statement in any return, whether verified upon oath or affirmation or executed before two subscribing witnesses, as provided in this section, shall be guilty of a misdemeanor."

8. By amending the second paragraph of section 15 thereof to read as follows:

"If (a) any individual or other person liable, under the provisions of this chapter, to make and file a return of compensation or dividends received by such person, or (b) any employer or company liable, under the provisions of this chapter, to withhold any tax on compensation or dividends and make a return thereof and pay the same to the commissioner, shall fail, neglect or refuse to make and file such return within the time or in the manner and form prescribed, or shall de-

cline to take oath or affirmation to such return if made, the commissioner may make a return for such person, employer or company from the best information obtainable and may levy and assess a tax upon the amount of compensation or dividends shown by such return (and, in the case of such employer or company, determine the amount of such tax and assess the amount of the same against such employer or company), and, in addition to the tax and as a part thereof when finally assessed, a penalty not to exceed twenty-five per centum of the amount of the tax may, in the discretion of the commissioner, be added to and become a part of the tax; such assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in this chapter, the contrary shall be clearly proved by such person, employer or company, and the burden of proof upon such appeal shall be on such person, employer or company to disprove such assessment. Notice of assessment shall be given, and an appeal therefrom may be taken, in the manner and within the time provided in sections 2042, paragraph 2, and 2045."

Section 4. Taxes, etc., under pre-existing laws unaffected; disposition after effective date. This Act shall not be construed as affecting in any manner, to the detriment of the Territory, any tax liens taxes, interest, fines, penalties, forfeitures or other liabilities or obligations, existing, due or incurred prior to the effective date of this Act, nor as affecting the liability of any person to prosecution for any misdemeanor or other criminal offense committed prior to said effective date under any statutes hereby amended, repealed or superseded; and all such liens, taxes, interest, fines, penalties, forfeitures, liabilities, obligations, misdemeanors and other offenses may be enforced, collected, prosecuted or punished, as the case may be, in the same manner, to the same extent and subject to the same conditions, as if this Act had not been enacted; provided, that all compensation paid for or attributable to personal services performed prior to July 1, 1939, and all dividends paid prior to said date, shall be subject to the rate prescribed by said chapter IV of said Appendix to said Revised Laws prior to its amendment by this Act, and not to the increased rates prescribed by this Act.

Section 5. Effect of partial invalidity. If any portion of this Act, or of any statute as amended by this Act, or the application thereof to any person or circumstance, shall be held unconstitutional or invalid, the remainder of this Act, or of said statute as amended by this Act, or the application of such portion to other persons or circumstances, shall not be affected.

Section 6. All laws or parts of laws inconsistent with this Act, or with any statute as amended by this Act, are hereby amended to conform to this Act, and to such statute as amended by this Act.

Section 7. This Act shall take effect on July 1, 1939.

(Approved May 17, 1939.) **S.B. 256, ACT 252.**

[A-43] An Act to Amend Act 141 of the Session Laws of Hawaii 1935, Imposing A Tax Upon the Privilege of Engaging in Certain Occupations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Part (q) of subsection 2 of [Sec. 2025D.] section 4 of Act 141 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"(q) The amounts collected by distributors as a fuel tax on 'liquid fuel' imposed by the provisions of the Revised Laws of Hawaii 1935, chapter 64, and the amounts collected by such distributors as a fuel tax imposed by any Act of the Congress of the United States;".

Section 2. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **H.B. 190, ACT 47.**

[Sec. 2025M. Tax debt due Territory; penalty for failure pay. Amended by Act 213, supra, page 64.]

CHAPTER 65. INCOME TAX.

[Secs. 2030, 2031, 2032, relating to definitions and rate. Amended by Act 213, supra, pages 64 to 65.]

[A-44] An Act Amending Chapter 65, Section 2033, of the Revised Laws of Hawaii 1935, as Amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, and Amending Act 209, Sections 1, 3 and 8, of the Session Laws of Hawaii 1933, (Chapter IV of the Appendix to the Revised Laws of Hawaii 1935), as Amended; Relating to the Taxation Under Said Laws of Compensation Received From the United States and Instrumentalities Thereof, Certain Exemptions From Such Taxation, and the Return and Collection of the Taxes Levied By Said Laws.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, is hereby further amended by amending section 2033 thereof:

A. By adding to paragraph (i) of subsection 2 the following:

"but this paragraph shall not be deemed to apply to compensation paid for or attributable to services performed for the United States or instrumentalities thereof."

B. By adding to subsection 2 a new paragraph to be designated (j) to read as follows:

"(j) Compensation received from the United States by officers and enlisted personnel for service in the regular army, navy, or marine corps, including the respective reserve corps of the United States."

[Secs. 2033, 2034, 2040, amended by Act 213, supra, page 65.]

Section 2. Act 209 of the Session Laws of Hawaii 1933, (chapter IV of the Appendix to the Revised Laws of Hawaii 1935) as amended

by Act 135 (Series E-214) of the Session Laws of Hawaii 1935, and by Act 242 (Series D-164) of the Session Laws of Hawaii 1937, is hereby further amended by amending section 1 thereof by adding at the end of the paragraph defining "employer" a new sentence to read as follows:

"Employer' shall also include the United States and instrumentalities of the United States."

Section 3. Act 209 of the Session Laws of Hawaii 1933 (**chapter IV of the Appendix to the Revised Laws of Hawaii 1935**), as amended, is hereby further amended by amending section 3 thereof by adding thereto a new paragraph to be designated (c), to read as follows:

"(c) Compensation received from the United States by officers and enlisted personnel for service in the regular army, navy, or marine corps, including the respective reserve corps of the United States, shall likewise be exempt."

Section 4. Act 209 of the Session Laws of Hawaii 1933 (**chapter IV of the Appendix to the Revised Laws of Hawaii 1935**), as amended, is hereby further amended by amending section 8 thereof:

A. By inserting after the first sentence of said section 8 a new sentence, to read as follows:

"Any individual who is in receipt of compensation from the United States or an instrumentality thereof shall be under the same duty as an individual who is in receipt of compensation from an employer who does not have a place of business in the Territory, unless the tax has been withheld from such compensation as provided by section 4."

B. By adding at the end of said section a new paragraph to read as follows:

"The tax commissioner, upon request of a taxpayer required by this section to make returns, may permit quarterly returns and payments of tax with respect to compensation, and annual returns and payments of tax with respect to dividends, and in granting such permission shall fix the date or dates for such filing of returns and payment of taxes."

Section 5. Constitutionality. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 6. Effective date; application of sections 1, 2, 3 and 4. Section 1 of this Act shall apply to all income taxes due January 1, 1940 or for the taxable year 1939, and also to all compensation received from the United States in other taxable years which the laws of the United States permit the Territory to subject to income tax. Sections 2, 3 and 4 shall take effect as of July 1, 1939, provided, however, that sections 2, 3 and 4 shall not take effect unless the tax levied by Act 209 of the Session Laws of Hawaii 1933 is then in effect. Subject

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to the foregoing provisions, this Act shall take effect upon its approval, provided, however, that this Act shall not become law and shall not become effective unless and until such time as House Bill No. 182 of the present session of the legislature is enacted into law and becomes effective.

(Approved May 16, 1939.) **S.B. 433, ACT 241.**

[A-45] An Act to Amend Chapter 65 of the Revised Laws of Hawaii 1935, as Amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, By Amending Section 2050 Thereof, Relating to Assessments and Credits, and by Adding Thereto A New Section to Be Numbered 2050A, Providing for Refunds; and Making An Appropriation for A Fund for Such Purpose.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, is hereby further amended by amending section 2050 thereof:

a. By amending subsection 1 thereof by inserting in the fourth line thereof, after the words "assessed or levied", the following: "and the overpayment of tax, if any, shall be credited".

b. By amending subsection 3 thereof by inserting a "comma" in the fifth line thereof, after the words "overpayment of tax", and further inserting the following: "if any".

Section 2. Chapter 65 of the Revised Laws of Hawaii 1935, as amended by Act 120 (Series A-45) of the Session Laws of Hawaii 1935, is hereby further amended by adding thereto a new section to be numbered 2050A, to read as follows:

"Sec. 2050A. Credits and refunds. 1. If the taxpayer has paid as an instalment of the tax more than the amount determined to be the correct amount of such instalment, the overpayment shall be credited against the unpaid instalments, if any. If the amount already paid, whether or not on the basis of instalments, exceeds the amount determined to be the correct amount of the tax, the amount of the credit shall be refunded as provided in this section, provided, however, that if the person entitled to the refund is delinquent in the payment of any tax, the auditor, upon demand of the collector and after notice to such delinquent taxpayer, shall withhold the amount of such delinquent taxes, together with penalties and interest thereon, from the amount of such refund and pay the same to the collector.

2. No credit shall be entered upon the records for any purpose until the same shall have been properly audited and the legality of the transaction determined by the auditor acting in conjunction with the attorney general in each case. In the event of an assessment made pursuant to section 2040, paragraph 6, or section 2042, paragraph 2, no reduction shall be made except by a court or other tribunal having jurisdiction.

3. There is hereby created a special fund to be known as the 'income tax credit fund' in such amount as may be fixed by the

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legislature for each biennium, the same to be subject to the warrants of the auditor upon the treasurer of the Territory, issued upon proper vouchers approved by the tax commissioner and the tax collector for the amount of the credit to be refunded.

4. The tax commissioner shall prepare for the legislature a statement of all refunds made under this chapter and the details thereof, including the name of the person receiving the refund and the amount refunded. Such statement shall be submitted to the Senate and the House of Representatives on the first day of each legislative session."

Section 3. There is hereby appropriated from the general revenues of the Territory not otherwise appropriated the sum of five thousand dollars (\$5,000.00) for the purpose of the "income tax credit fund" created by this Act for the biennial period ending June 30, 1941.

Section 4. This Act shall take effect upon its approval and shall apply to all returns filed thereafter or within the five years prior to the effective date of this Act.

(Approved May 13, 1939.) **S.B. 404, ACT 223.**

CHAPTER 66A. LIQUOR TAX.

[A-46] An Act Imposing a Tax on the Sale of Beer, Wine and Other Liquor; Providing for the Collection Thereof and for the Enforcement of the Provisions of this Act; and Providing for the Forfeiture and Suspension of Licenses Issued Pursuant to Chapter 82 of the Revised Laws of Hawaii 1935, as Amended, for Non-compliance With this Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2087.] Section 1. **Short title.** This Act shall be known and may be cited as the "Hawaii Liquor Tax Act".

[Sec. 2087A.] Section 2. **Definitions.** Wherever used in this Act, unless the context otherwise requires:

1. "Commissioner" means the tax commissioner of the territory.
2. "Liquor commission" means the liquor commission of each county.
3. "Liquor law" means chapter 82 of the Revised Laws of Hawaii 1935, as amended.
4. "Beer", "liquor", "person", "licensed premises", and "wine", shall have the same meanings as said words have as used in the liquor law.
5. "Dealer", means the holder of a retail dealer's license, a manufacturer's license, or a wholesaler's license, under the liquor law, who sells liquor directly to the purchaser as defined in this Act.
6. "Dispenser" means the holder of a dispenser's license, "club" means the holder of a club license, and "vessel owner" means the holder of a vessel license, under the liquor law.

7. "Permittee" means the holder of a permit provided for in section 3 of this Act.

8. "Purchaser" means a person who purchases liquor for consumption and not for resale, or a dispenser, club or vessel owner, but shall not include a person who purchases liquor for sacramental purposes.

9. "Retail price" means the ordinary, customary or usual price (exclusive of any amount charged or collected pursuant to section 6 of this Act on account or by way of reimbursement of the tax imposed by this Act) which a consumer would pay a retail dealer (as defined by said liquor law) for the articles in respect of which the tax is imposed under this Act; provided, that the word "consumer", as used in this paragraph, shall not include a dispenser, club or vessel owner.

10. "Sale" means any transfer of title or possession, or both, exchange or barter, in any manner or by any means whatsoever, for a consideration, but shall not include the sale of liquor for sacramental purposes or the sale of liquor by one dealer to another dealer for resale.

11. The singular shall include the plural and the masculine shall include the feminine and the neuter.

[Sec. 2087B.] Section 3. Permit. (a) On and after July 1, 1939, it shall be unlawful for any dealer, dispenser, club, or vessel owner to sell liquor unless a permit shall have been issued to him as hereinafter prescribed; and such permit is in full force and effect.

(b) The liquor commission shall certify to the commissioner from time to time and within forty-eight hours after such license is issued the name of every dealer, dispenser, club or vessel owner, together with his place of business and the period covered by his license. The commissioner thereupon shall issue his permit to such person for the period covered by his license upon the payment of a permit fee of one dollar (\$1.00). Such permit shall be issued by the commissioner as of the date when the liquor commission issued the license.

(c) Any permit issued under this Act shall not be assignable; it shall be conspicuously displayed on the licensed premises of the permittee; it shall expire on the 30th day of June next succeeding the date upon which it is issued, unless sooner suspended, surrendered, or revoked for cause by the commissioner; it shall be renewed annually before the 1st day of July, upon fulfillment of all requirements as in the case of an original permit and the payment of a renewal fee of one dollar (\$1.00); whenever it is defaced, destroyed, or lost, or the licensed premises are relocated, the commissioner may issue a duplicate permit to the permittee upon the payment of a fee of fifty cents (\$.50).

(d) The commissioner may suspend, or, after hearing, revoke, any permit issued under this Act whenever he finds that the permittee has failed to comply with any of the provisions of this Act, or any rule or regulation of the commissioner prescribed, adopted, and promulgated under this Act. Upon suspending or revoking any permit the commissioner shall request the permittee to surrender to him immediately the permit, or any duplicate thereof issued to him, and

the permittee shall surrender the same promptly to the commissioner as requested. Whenever the commissioner suspends a permit, he shall notify the permittee immediately and afford him a hearing, if desired, and if a hearing has not already been afforded. After such hearing the commissioner shall either rescind his order of suspension, or good cause appearing therefor, shall continue the suspension or revoke the permit.

[Sec. 2087C.] **Section 4. Cooperation between commissioner and liquor commission.** The commissioner shall notify the proper liquor commission of the name and address of every permittee whose permit has been revoked, and any license issued to such permittee under the liquor law thereupon shall be deemed forfeited.

The commissioner may notify the proper liquor commission of the name and address of every person who has failed to file any return required, or to pay any tax prescribed, or to secure a permit, or to perform any other duty or act imposed under the provisions of this Act, and such liquor commission shall thereupon suspend any license which may have been issued to any such person under the liquor law until such time as such person shall comply with the provisions of this Act.

The liquor commission shall, upon request, furnish to the commissioner any information in its possession relative to any person having a license issued by it, and its records shall be open to the examination of the commissioner or his duly authorized agent.

[Sec. 2087D] **Section 5. Tax.** Every dealer and every person (other than a dealer) who sells liquor to a purchaser shall, in addition to any other taxes provided by law, pay an excise tax, which is hereby imposed, equal to six per cent of the retail price of all liquor sold by him to any purchaser; provided, (1) that such tax shall not apply to any liquor exempted, and so long as the same is exempted, from the imposition of said tax by the constitution or laws of the United States, and (2) that the tax shall be paid only once upon the same liquor.

[Sec. 2087E.] **Section 6. Reimbursement of dealer for tax paid.** Upon each sale of liquor by a dealer, the amount of the tax accruing on such sale shall be stated and shown separately from the sales price on the sales record thereof as kept by the dealer, and shall be added to and constitute a part of the sale price. Every dealer who shall fail to state the amount of the tax separately from the sale price as provided in this paragraph shall be guilty of a misdemeanor and shall be punished by a fine of not more than fifty dollars (\$50.00) for each offense.

[Sec. 2087F.] **Section 7. Retail price lists.** Each dealer shall, within five days after he receives a permit under section 3 of this Act, file with the commissioner a price list setting forth the retail price for over-the-counter retail sales of all liquor, specifying sizes of original packages, types, brands, and prices thereof, which price list, except as otherwise hereinafter provided, shall, until and unless amended by the filing of a revised list, constitute the retail price of such liquor for the purposes of the tax under this Act; provided: (a) that upon any change of price, the dealer shall, before such price change goes into effect, file with the commissioner amendments to the list as last filed by him, setting forth such change of price; and (b) that if the commissioner finds that the actual bona fide over-the-counter retail price of any such liquor at any particular time is in

excess of the price set forth in such price list therefor, he shall in writing notify the dealer concerned of such finding and of the retail price found by him to be correct for such liquor, and after receipt of such notice by such dealer, the tax upon all sales of such liquor shall be computed upon the basis of such new retail price so found by the commissioner, subject to appeal as hereinafter provided. Any dealer who shall fraudulently, and with intent to evade the tax or any portion of the tax imposed by this Act, file any such price list which is false in any particular, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000.00), or imprisonment for not more than one year, or by both such fine and imprisonment.

[Sec. 2087G] Section 8. [Return, form, contents.] Every permittee shall, on or before the 20th day of each month, file with the assessor of the taxation division in which his licensed premises are located, or with the commissioner in Honolulu, a return showing: (a) in the case of a dealer, all sales of liquor made by him during the preceding month, showing separately the amount of the non-taxable sales, and the amount of the taxable sales, and the tax payable thereon, and also the sales made to him by another dealer; and (b) in the case of a permittee other than a dealer, all sales of liquor made to him during such preceding month. The form of return shall be prescribed by the commissioner and shall contain such information as he may deem necessary for the proper administration of this Act.

[Sec. 2087H.] Section 9. Payment of tax; penalty for delinquency. At the time of the filing of the return required under section 8 of this Act, each permittee shall pay to the commissioner the tax imposed by this Act upon the taxable sales required to be included in such return. All such taxes for the period for which a return is required to be filed shall be due from the permittee and payable to the commissioner on the date limited for the filing of the return for such period without regard to whether a return is filed or whether a return which is filed correctly shows the amount of the taxable sales and the tax due thereon. A penalty of ten per cent. shall be added to the amount of any delinquent tax, whether the delinquency is caused by the failure to pay the tax or to file the return or because of a false or fraudulent or erroneous return, which penalty shall become a part of the tax and shall be collected as such. Any delinquent tax and penalty remaining unpaid fifteen days after the date of delinquency shall bear interest from the date of expiration of the fifteen days at the rate of two-thirds of one per cent. for each month or fraction of a month until paid, which interest shall become a part of the tax and shall be collected as such.

[Sec. 2087I.] Section 10. Determination of tax, additional assessments, credits and refunds. (a) As soon as practicable after each return shall have been filed, the commissioner shall cause it to be examined and shall compute and determine the amount of the tax payable thereon.

(b) If it should appear upon such examination or thereafter within three years after the filing of the return, or at any time if no return has been filed, as a result of such examination or as a result of any examination of the records of the permittee or of any other inquiry or investigation, that the correct amount of the tax is greater than that shown on the return, or that any tax imposed by this Act

has not been paid, an assessment of such tax may be made in the manner provided in section 2042-2 of the Revised Laws of Hawaii 1935. The amount of the tax for the period covered by the assessment shall not be reduced below the amount determined by an assessment so made, except upon appeal or in a proceeding brought pursuant to section 571 of said Revised Laws.

(c) If the permittee has paid or returned with respect to any month more than the amount determined to be the correct amount of tax for such month, the amount of the tax so returned and any assessment of tax made pursuant to the return may be reduced, and any overpayment of tax may be credited upon the tax imposed by this Act, or at the election of the permittee, he not being delinquent in the payment of any taxes owing to the territory, may be refunded out of any moneys in the general fund not otherwise appropriated; provided, however, that no reduction of tax may be made when forbidden by the provisions of paragraph (b), or more than three years after the filing of the return.

[Sec. 2087J.] Section 11. **Records to be kept.** (a) Every dealer shall make a record in duplicate of all sales of liquor made by him, showing the brand, quantity and price thereof and the tax payable thereon. The original thereof he shall deliver to the purchaser at the time of such sale, and the duplicate he shall keep as part of his records. Every dispenser, club, and vessel owner shall keep a record of all purchases by him of liquor and of the tax payable thereon, in such form as the commissioner may prescribe. All such records shall be offered for inspection and examination at any time upon demand by the commissioner or his duly authorized agent and shall be preserved for a period of three years, except that the commissioner may in writing consent to their destruction within such period or may require that they be kept longer.

The commissioner may by regulation require the permittee to keep such other records as he may deem necessary for the proper enforcement of this Act.

(b) If any dealer, dispenser, club, or vessel owner shall fail to keep records from which a proper determination of the tax due under this Act may be made, the commissioner may fix the amount of the tax for any period from the best information obtainable by him, and assess the tax as hereinbefore provided.

[Sec. 2087K.] Section 12. **Inspection.** The commissioner, or his duly authorized agent, is hereby empowered to examine all records required to be kept under this Act, and books, papers and records of any person engaged in the sale of liquor to verify the accuracy of the payment of the tax imposed by this Act, and other compliance with this Act and regulations adopted pursuant thereto. Every person in possession of such books, papers and records and his agents and employees are hereby directed and required to give to the commissioner or his duly authorized agent the means, facilities and opportunities for such examination.

[Sec. 2087L.] Section 13. **Tax in addition to other taxes.** The tax imposed by this Act shall be in addition to any other tax imposed upon the business of selling liquor or upon any of the transactions, acts, or activities taxed by this Act.

[Sec. 2087M.] Section 14. **Appeals.** Any person aggrieved by any assessment of the tax imposed by this Act may appeal from said

assessment within twenty days by lodging with the commissioner or his deputy a notice of the appeal in writing, stating the ground of his objection to the assessment or any part thereof, provided the tax so assessed shall have been paid. Such appeal may be made either to the divisional board of review or to the tax appeal court in like manner (except as otherwise in this Act provided) and with a deposit of costs (as hereinafter provided) as in the case of real property tax appeals, and if the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer, and if heard by the board an appeal shall lie from the decision thereof to the tax appeal court with costs as herein elsewhere provided. An appeal shall lie from the decision of the tax appeal court to the supreme court in the same manner and with similar costs as provided for real property tax appeals. The supreme court shall prescribe forms to be used in such appeals.

If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the supreme court as hereinabove provided. The amount of costs to be deposited in the tax appeal court shall be six per cent. of the amount of taxes in dispute.

[Sec. 2087N.] **Section 15. Other provisions applicable.** All of the provisions of chapters 64A, enacted by Act 141 of the Session Laws of Hawaii 1935, and 65 of said Revised Laws not inconsistent with the provisions of this Act and which may appropriately be applied to the taxes, persons, circumstances and situations involved in this Act, including (without prejudice to the generality of the foregoing) provisions as to penalties and interest, and provisions granting administrative powers to the commissioner, and provisions for the assessment, levy and collection of taxes, shall be applicable to the taxes imposed by this Act, and to the assessment, levy and collection thereof.

[Sec. 2087O.] **Section 16. Oaths and subpoenas.** The commissioner, and any agent of the commissioner duly authorized by him to conduct any inquiry, investigation or hearing hereunder, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the commissioner, the commissioner or his agent authorized to conduct such hearing may subpoena witnesses and require the production of books, papers and documents pertinent to such inquiry. No witness under subpoena authorized to be issued by the provisions of this section shall be excused from testifying or from producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate him, but such evidence or the books or papers so produced shall not be used in any criminal proceeding against him. If any person shall disobey such process or, having appeared in obedience thereto, shall refuse to answer any pertinent question put to him by the commissioner or his authorized agent or to produce any books and papers pursuant thereto, the commissioner or such agent may apply to the circuit court of the circuit wherein the taxpayer resides or wherein the transaction, act or activity under investigation has occurred, or to any judge of said court, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such books and papers, and, upon his refusal so to do, shall commit such person to jail until he shall testify, but

not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the commissioner may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the commissioner or under his authority and witnesses attending hearings conducted by him hereunder shall receive like fees and compensation as officers and witnesses in the circuit courts of the territory, to be paid on vouchers of the commissioner, from any moneys available for litigation expenses of the commissioner.

[Sec. 2087P.] **Section 17. Administration by commissioner, rules and regulations.** The administration of this Act is vested in the commissioner. All forms necessary or convenient for the administration of this Act shall be prescribed, printed and furnished by said commissioner.

The commissioner may prescribe, adopt, promulgate and enforce rules and regulations for the enforcement and administration of this Act.

Such rules and regulations shall be prescribed by the commissioner, subject to the approval of the governor, and shall be promulgated by publishing the same once in a newspaper of general circulation in the territory published in the English language, or by posting copies thereof in three public places in each tax division, in which event the commissioner shall cause copies to be printed for sale to the public.

[Sec. 2087Q.] **Section 18. Penalties.** (a) The penalties provided by this section shall apply to any person whether acting as principal, agent, officer, or director, for himself or itself or for another person, and shall apply to each single violation, but shall not apply to any act the punishment for which is elsewhere prescribed by this Act.

(b) Any person who shall sell liquor to a purchaser without a permit as required by this Act shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine or not more than one thousand dollars (\$1,000.00).

(c) Any person who shall make any false or fraudulent return or false statement in any return, with intent to defraud the territory or to evade the payment of any tax or any part thereof imposed by this Act, or who shall in any manner deceive or attempt to deceive the commissioner or his authorized agent in relation to any such tax shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced for the first offense to pay a fine of not more than one thousand dollars (\$1,000.00), or to imprisonment for a term not exceeding six months, or both, in the discretion of the court, and in the case of a conviction of a second or subsequent offense hereunder, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) or more than three thousand dollars (\$3,000.00), or to imprisonment for a term of not more than one year, or both such fine and imprisonment in the discretion of the court.

(d) Any person who shall fail or refuse to permit the examination of any book, paper, account, record or property by the commissioner or his authorized agent, as required by this Act, and any person who shall fail, neglect or refuse to comply with or shall violate the rules and regulations prescribed, adopted, and promulgated by the commissioner under the provisions of this Act, shall be guilty

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of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00) or to imprisonment of not more than six months, or both such fine and imprisonment in the discretion of the court.

[Sec. 2087R.] Section 19. **Disposition of revenues.** All moneys collected pursuant to this Act shall be paid into the territorial treasury as territorial realizations, to be kept and accounted for as provided by law.

[Sec. 2087S.] Section 20. **Constitutionality.** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 21. **Effective date.** This Act shall take effect upon its approval, provided that the requirement of permits and the imposition of the tax shall take effect on July 1, 1939, as hereinbefore provided.

(Approved May 13, 1939.) **H.B. 436, Act 222.**

CHAPTER 67. PERSONAL PROPERTY TAX.

[A-47] An Act Amending Section 2102 of the Revised Laws of Hawaii 1935, As Amended By Act 153 (Series A-33) of the Session Laws of Hawaii 1935, and By Act 172 (Series A-45) of the Session Laws of Hawaii 1937, By Changing Subsection 3 Thereof, Relating to the Personal Property Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2102 of the Revised Laws of Hawaii 1935, as amended by Act 153 (Series A-33) of the Session Laws of Hawaii 1935, and by Act 172 (Series A-45) of the Session Laws of Hawaii 1937, is hereby further amended by deleting from subsection 3 thereof the figures "\$500,000.00", appearing opposite the term "City and County of Honolulu", and inserting in lieu thereof the figures "\$700,000.00".

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1939.) **S.B. 281, Act 188.**

[Sec. 2104. **Assessment; basis.** Amended by Act 208, supra page 60.]

[Sec. 2105. **Returns; conditional assessment on basis of returns.** Amended by Act 208, supra, page 61.]

[Sec. 2115. **Assessment of unreturned or omitted property.** Amended by Act 213, supra, page 65.]

CHAPTER 68. POLL TAX.

[Sec. 2126. Payment; time, enforcement, delinquent penalties. Amended by Act 213, supra, page 66.]

[Sec. 2127. Employer required to withhold and pay tax when; duties, rights. Amended by Act 213, supra, page 66.]

[Sec. 2129. Penalty for failure to withhold. Amended by Act 213, supra, page 67.]

[Sec. 2131. Returns by employer. Amended by Act 213, supra, page 67.]

[A-48] An Act to Amend Section 2133 of the Revised Laws of Hawaii 1935, Relating to the Recovery of Over-Payments of Poll Taxes.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2133 of the Revised Laws of Hawaii 1935 is hereby amended by deleting therefrom the next to the last sentence thereof.

Section 2. This Act shall take effect upon its approval.

(Approved May 6, 1939.) **S.B. 286, Act 181.**

CHAPTER 70A. TOBACCO TAX.

[A-49] An Act to Impose a Tax Upon the Sale or Use of Certain Tobacco Products and to Provide for the Collection of Said Tax and Matters Incidental Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2160] Section 1. **Short title.** This Act shall be known and may be cited as the "Tobacco Tax Act".

[Sec. 2160A.] Section 2. **Definitions.** As used in this Act, unless a different meaning is indicated by the context:

1. "Commissioner" means the tax commissioner of the territory.
2. "Dealer" means any person who comes into the possession of tobacco products, which products have not been acquired from a wholesaler or dealer licensed under this Act, and who sells or uses such tobacco products.
3. "Person" means one or more people, a company, corporation, a partnership or an association.
4. "Retail price" means the ordinary, customary or usual price paid by the consumer for the articles taxed.
5. "Sale" or "sold" includes any delivery of tobacco products, whether cash is actually paid therefor or not.

6. "Tobacco products" means tobacco in any form prepared or intended for consumption by or the personal use of humans, including cigars and cigarettes and any substitutes thereof which bear the semblance thereof, snuff, chewing tobacco and smoking tobacco.

7. "Tobacco tax" means the tax imposed by this Act.

8. "Wholesaler" means a person who sells or otherwise distributes tobacco products only to retailers, or other wholesalers, or both.

[Sec. 2160B.] Section 3. License. On and after July 1, 1939, it shall be unlawful for any wholesaler or dealer to sell or use tobacco products in the territory without having first received a license therefor issued by the commissioner under this Act; provided that this section shall not be construed to supersede the provisions of any other law relating to licensing of persons in the same business.

Such license shall be issued by the commissioner upon application therefor, in such form and manner as shall be required by regulation of the commissioner, and the payment of a fee of \$1.00, and shall be renewable annually on July 1 for the twelve months ending the succeeding June 30.

Any person who may lawfully be required by the territory, and who is required by this Act, to secure a license as a condition precedent to engaging or continuing to act as a wholesaler or dealer, who shall act as such wholesaler or dealer without securing a license in conformity with this Act, and any officer or agent of any such firm who aids or abets such firm to act as a wholesaler or dealer without securing a license in conformity with this Act, shall be guilty of a misdemeanor, punishable as provided in the case of other misdemeanors by section 15 (b) of this Act.

[Sec. 2160C.] Section 4. Tax. Every wholesaler or dealer shall, in addition to any other taxes provided by law, pay an excise tax, which is hereby imposed, equal to six per cent of the retail price of each article or item of tobacco products sold or used by him; provided, (1) that such tax shall not apply to any tobacco products exempted, and so long as the same are exempted, from the imposition of said tax by the constitution or laws of the United States, and (2) that the tax shall be paid only once upon the same tobacco products.

[Sec. 2160D.] Section 5. Wholesaler or dealer to state tax separately; may collect tax from purchaser. Upon each sale of tobacco products by a wholesaler or dealer the tax collectible in respect of such sale shall be stated and charged separately from the sales price and shown separately on the record thereof kept by the wholesaler or dealer, and he shall deliver a duplicate of the record of such transaction, showing such sales price and tax, to the purchaser, and shall be liable for the payment of such tax. The wholesaler or dealer or any other person who acquires tobacco products upon which the tobacco tax has been paid shall have the same right in respect to collecting the tax and thereby reimbursing himself for the same from any purchaser from him, as if the tax were a part of the purchase price. Every wholesaler or dealer who shall fail to state and charge the tax to be collected, separately from the sales price as provided in this section shall be guilty of a misdemeanor and shall be punishable by a fine of not less than \$10.00 nor more than \$50.00 for each offense.

[Sec. 2160E.] Section 6. Returns. Every licensee shall, on or before the 20th day of each month, file with the commissioner or with such

tax office as the commissioner shall direct, a return of the tobacco products sold or used by him during the preceding calendar month and of the tax payable thereon. The form of the return shall be prescribed by the commissioner and shall contain such information as he may deem necessary for the proper administration of this Act.

[Sec. 2160F.] **Section 7. Payment of tax; penalty for delinquency.** At the time of filing the return required under section 6 of this Act, each licensee shall pay to the commissioner the tax imposed by this Act upon the transactions covered by such return and taxable under this Act. All of the tobacco tax for the period for which a return is required to be filed shall be due from the licensee and payable to the commissioner on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether a return which is filed correctly shows the transactions taxable and the tax due thereon. A penalty of ten per cent shall be added to the amount of any delinquent tax, whether the delinquency is caused by the failure to pay the tax or to file the return or because of a false or fraudulent or erroneous return, which penalty shall become a part of the tax and be collected as such. Any delinquent tax and penalty remaining unpaid fifteen days after the date of delinquency shall bear interest from the date of expiration of the fifteen days at the rate of two-thirds of one per cent for each month or fraction of a month until paid, which interest shall become a part of the tax and be collected as such.

[Sec. 2160G.] **Section 8. Determination of tax, additional assessments, credits and refunds.**

(a) As soon as practicable after each return shall have been filed, the commissioner shall cause it to be examined and shall compute and determine the amount of the tax payable thereon.

(b) If it should appear upon such examination or thereafter within three years after the filing of the return, or at any time if no return has been filed, as a result of such examination or as a result of any examination of the records of the licensee or of any other inquiry or investigation, that the correct amount of the tax is greater than that shown on the return, or that any tax imposed by this Act has not been paid, an assessment of such tax may be made in the manner provided in section 2042-2 of the Revised Laws of Hawaii 1935. The amount of the tax for the period covered by the assessment shall not be reduced below the amount determined by an assessment so made, except upon appeal or in a proceeding brought pursuant to section 571 of the Revised Laws of Hawaii 1935.

(c) If the licensee has paid or returned with respect to any month more than the amount determined to be the correct amount of tax for such month, the amount of the tax so returned and any assessment of tax made pursuant to the return may be reduced, and any overpayment of tax may be credited upon the tax imposed by this Act, or at the election of the licensee, he not being delinquent in the payment of any taxes owing to the territory, may be refunded out of any moneys in the general fund not otherwise appropriated; provided, however, no reduction of tax may be made when forbidden by the provisions of paragraph (b), or more than three years after the filing of the return.

[Sec. 2160H.] Section 9. Records to be kept.

(a) Every wholesaler and dealer shall keep a record of every sale or use of tobacco products by him, and of the tax payable thereon, if any, in such form as the commissioner may prescribe. Such record shall be offered for inspection and examination at any time upon demand by the commissioner or his duly authorized agent and shall be preserved for a period of three years, except that the commissioner may, in writing, consent to their destruction within such period or may require that they be kept longer. The commissioner may by regulation require the licensee to keep such other records as he may deem necessary for the proper enforcement of this Act.

(b) If any wholesaler or dealer shall fail to keep records from which a proper determination of the tax due under this Act may be made, the commissioner may fix the amount of the tax for any period from the best information obtainable by him and assess the tax as hereinbefore provided.

[Sec. 2160I.] Section 10. Inspection. The commissioner, or his duly authorized agent, is hereby empowered to examine all records required to be kept under this Act, and books, papers and records of any person engaged in the sale of tobacco products, to verify the accuracy of the payment of the tax imposed by this Act. Every person in possession of such books, papers and records, and his agents and employees, are hereby directed and required to give to the commissioner or his duly authorized agent the means, facilities and opportunities for such examination.

[Sec. 2160J.] Section 11. Appeals. Any person aggrieved by any assessment of the tax imposed by this Act may appeal from said assessment within twenty days by lodging with the commissioner or his deputy a notice of the appeal in writing, stating the ground of his objection to the assessment or any part thereof, provided the tax so assessed shall have been paid. Such appeal may be made either to the divisional board of review or to the tax appeal court in like manner (except as otherwise in this Act provided) and with a deposit of costs (as hereinafter provided) as in the case of real property tax appeals, and if the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer, and if heard by the board an appeal shall lie from the decision thereof to the tax appeal court with costs as herein elsewhere provided. An appeal shall lie from the decision of the tax appeal court to the supreme court in the same manner and with similar costs as provided for real property tax appeals. The supreme court shall prescribe forms to be used in such appeals.

If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the supreme court as hereinabove provided. The amount of costs to be deposited in the tax appeal court shall be six per cent of the amount of taxes in dispute.

[Sec. 2160K.] Section 12. Chapter 64A, enacted by Act 141 of the Session Laws of Hawaii 1935, and chapter 65, Revised Laws of Hawaii 1935, applicable. All of the provisions of chapter 64A and chapter 65, Revised Laws of Hawaii 1935, not inconsistent with the provisions of this Act and which may appropriately be applied to the taxes, persons, circumstances and situations involved in this Act, including (without

prejudice to the generality of the foregoing) provisions as to penalties and interest, and provisions granting administrative powers to the tax commissioner, and provisions for the assessment, levy and collection of taxes shall be applicable to the taxes imposed by this Act, and to the assessment, levy and collection thereof.

[Sec. 2160L.] **Section 13. Oaths and subpoenas.** The commissioner, and any agent of the commissioner duly authorized by him to conduct any inquiry, investigation or hearing hereunder, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the commissioner, the commissioner or his agent authorized to conduct such hearing may subpoena witnesses and require the production of books, papers and documents pertinent to such inquiry. No witness under subpoena authorized to be issued by the provisions of this section shall be excused from testifying or from producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate him, or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have testified or produced documentary evidence. If any person shall disobey such process or, having appeared in obedience thereto, shall refuse to answer any pertinent question put to him by the commissioner or his authorized agent, or to produce any books and papers pursuant thereto, the commissioner or such agent may apply to the circuit court of the circuit wherein the taxpayer resides or wherein the transaction, act or activity under investigation has occurred, or to any judge of said court, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such books and papers and, upon his refusal so to do, shall commit such person to jail until he shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the commissioner may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the commissioner or under his authority, and witnesses attending hearings conducted by him hereunder, shall receive like fees and compensation as officers and witnesses in the circuit courts of the territory, to be paid on vouchers of the commissioner, from any moneys available for litigation expenses of the commissioner.

[Sec. 2160M.] **Section 14. Administration by commissioner, rules and regulations.** The administration of this Act is vested in the commissioner. All forms necessary or convenient for the administration of this Act shall be prescribed, printed and furnished by said commissioner.

The commissioner may prescribe, adopt, promulgate and enforce rules and regulations for the enforcement and administration of this Act.

Such rules and regulations shall be prescribed by the commissioner, subject to the approval of the governor, and shall be promulgated by publishing the same once in a newspaper of general circulation in the territory published in the English language, or by posting copies

thereof in three public places in each tax division, in which event the commissioner shall cause copies to be printed for sale to the public.

[Sec. 2160N.] Section 15. **Penalties.**

(a) The penalties provided by this section shall apply to any person, whether acting as principal, agent, officer or director, for himself, itself, or for another person, and shall apply to each single violation but shall not apply to any act the punishment for which is elsewhere prescribed by this Act.

(b) Any person who shall make any false or fraudulent return or false statement in any return, with intent to defraud the territory or to evade the payment of any tax or any part thereof imposed by this Act, or who shall, in any manner, deceive or attempt to deceive the commissioner or his authorized agent in relation to any such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not more than \$1,000.00, or to imprisonment for a term not exceeding six months, or both, in the discretion of the court, and in the case of a conviction of a second or subsequent offense hereunder, shall be sentenced to pay a fine of not less than \$100.00 or more than \$3,000.00, or to imprisonment for a term of not more than one year, or both such fine and imprisonment in the discretion of the court.

(c) Any person who shall fail or refuse to permit the examination of any book, paper, account, record or property by the commissioner or his authorized agent, as required by this Act, and any person who shall fail, neglect or refuse to comply with or shall violate the rules and regulations prescribed, adopted and promulgated by the commissioner under the provisions of this Act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$500.00 or to imprisonment of not more than six months, or both such fine and imprisonment, in the discretion of the court.

[Sec. 2160O.] Section 16. **Disposition of revenues.** All moneys collected pursuant to this Act shall be paid into the territorial treasury as a territorial realization, to be kept and accounted for as provided by law.

[Sec. 2160P.] Section 17. **Constitutionality.** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each sentence, section, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 18. **Effective date.** This Act shall take effect upon its approval, provided that the requirement of licenses and the imposition of the tax shall take effect July 1, 1939, as hereinbefore provided.

Title X.**TREASURY.****CHAPTER 71.****TREASURY
DEPARTMENT.**

[A-50] An Act to Amend Section 2202 of the Revised Laws of Hawaii 1935, Relating to Fiscal Agents of the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2202 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 2202. **Fiscal agents.** The treasurer is authorized and empowered to appoint, with the approval of the governor, such fiscal agents as may be necessary and expedient to facilitate the sale, purchase and redemption of the bonds of the Territory and the payment of interest thereon. The treasurer may authorize and empower such fiscal agents, for and on behalf of the Territory, to receive and receipt for moneys realized from the sale of such bonds and to pay out moneys for the redemption or purchase thereof and for the payment of interest thereon, and to receive receipts for all moneys so paid out. Moneys received by the fiscal agents from the sale of bonds on behalf of the Territory shall not, for a period of fifteen days after the sale of bonds, be considered as deposits within the meaning of chapter 74, and moneys placed with the fiscal agents for the purpose of purchase or redemption of bonds and coupons shall not be considered as deposits within the meaning of chapter 74. All appointments made under this section may be revoked by the treasurer at any time." [L. 1907, c. 102, s. 1; am. L. 1927, c. 233, s 1; R. L. 1935, s. 2202; am. L. 1939, c. 51. s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **S.B. 121, Act 51.**

TREASURY. INSURANCE FUND.

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[SERIES A-51.—ACT 49.
[SERIES A-52.—ACT 153.]

[A-51] An Act to Amend Section 2207 of the Revised Laws of Hawaii 1935, and to Amend All Other Laws Referring to the Registrar or Deputy Registrar of Public Accounts to Conform Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2207 of the Revised Laws of Hawaii 1935 is hereby amended by substituting for the terms "registrar of public accounts" and "deputy registrar of public accounts", wherever the same appear in said section, the terms "first deputy treasurer" and "second deputy treasurer", respectively. Wherever in said section 2207 or in any other law of the Territory reference is made in any terms to the registrar of public accounts or to the deputy registrar of public accounts, such reference shall be deemed to mean and designate the first deputy treasurer or the second deputy treasurer, as the context may indicate to be appropriate, in conformity with the amendments hereinabove made, and all of said laws are hereby amended accordingly.

Section 2. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **S.B. 117, ACT 49.**

**CHAPTER 75. INSURANCE FUND,
TERRITORIAL.**

[A-52] An Act to Amend Section 2260 of the Revised Laws of Hawaii 1935, Relating to the Territorial Insurance Fund, to Provide for the Appropriation of the Sum of Twenty Thousand Dollars (\$20,000.00) Annually, Up to and Including the Calendar Year 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2260 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 2260. Territorial insurance fund created. The treasurer of the territory shall set aside, as a special fund to be known as the 'Territorial Insurance Fund', the sum of twenty thousand dollars (\$20,000.00) during the year 1939, out of the general funds of the treasury not otherwise appropriated, and twenty thousand dollars (\$20,000.00) annually up to and including the calendar year 1941." [L. 1915, c. 174, s. 1; am. L. 1927, c. 227, s. 1; am. L. 1932, 2d, c. 5, s. 1; R. L. 1935, s. 2260; am. L. 1939, c. 153, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **H.B. 406, ACT 153.**

COUNTIES—GENERAL.

SERIES B-53.—ACT 130.]

SERIES B-54.—ACT 37.]

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Title XI. COUNTIES—GENERAL.

CHAPTER 78. GENERAL PROVISIONS.

[Sec. 2310. Bonds of county and city and county officers; form. Amended by Act 242, infra, page 133.]

[Sec. 2311. Sureties, number and qualifications of. Amended by Act 242, infra page 134.]

[B-53] An Act Amending Section 2316 of the Revised Laws of Hawaii 1935, Relating to the Disposition of Funds Received Under the Provisions of Franchises.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2316 of the Revised Laws of Hawaii 1935 is hereby amended by deleting the "period" at the end thereof and substituting therefor a "semicolon", and inserting thereafter a proviso to read as follows:

"provided, however, that in the city and county of Honolulu, the board of supervisors may expend up to fifty per centum of the moneys so received for the installation of new street lights and improvements and replacements of old street lights."

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **S.B. 199, ACT 130.**

[Sec. 2321. Salaries of county officers and employees full compensation; moneys payable into treasury. Amended by Act 242, infra, page 134.]

CHAPTER 79. HIGHWAYS, SIDEWALKS, PARKS; USE OF STREETS, ETC.

[B-54] An Act To Amend Section 2359 of the Revised Laws of Hawaii 1935, Relating to Sidewalks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2359 of the Revised Laws of Hawaii 1935, is hereby amended by changing the period (.) at the end of said section to a semi-colon (;) and by adding thereto the following provisos:

"provided, however, that the Board of Supervisors may construct, maintain and repair footpaths not less than two feet wide, on or along those certain sections of the public highways used by pedestrians, including children going to and from any school; provided, also, that such footpaths shall not be constructed on or along such highways where it is estimated that less than ten per cent of the total enrollment of any school may use such footpaths; and provided further, that such footpaths may be built without the restrictions affecting the construction of sidewalks."

Section 2. This Act shall take effect upon its approval.

(Approved April 4, 1939.) **H.B. 40, ACT 37.**

[Sec. 2362. Notice. Amended by Act 242, infra, page 134.]

[B-55] An Act To Amend 173 (Series B-51) of the Session Laws of Hawaii 1935, Relating to the Cooperation of the Territory of Hawaii, Its Political Subdivisions and Agencies, With the Hawaii Housing Authority and the United States of America, by Amending Section 3 Thereof, Relating to Conveyances, Leases, or Agreements by the Territory of Hawaii, Its Political Subdivisions and Agencies, the Furnishing of Services and Property and Entering Into Certain Agreements With Respect to Housing Projects, and the Purchase of Bonds of the Hawaii Housing Authority.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 173 of the Session Laws of Hawaii 1935 is hereby amended by amending section 3 thereof to read as follows:

[Sec. 2397C.] "Section 3. **Conveyance, lease or agreement in aid of housing project; purchase of bonds.** For the purpose of aiding and cooperating in the planning, construction and operation of housing projects located within their respective territorial boundaries, the Territory of Hawaii, its political subdivisions and agencies, may, upon such terms, with or without consideration, as it may determine:

(a) Dedicate, grant, sell, convey or lease any of its property, or grant easements, licenses or any other rights or privileges therein to the authority or the United States of America or any agency thereof;

(b) to the extent that it is within the scope of each of their respective functions, (1) cause the services customarily provided by each of them to be rendered for the benefit of housing projects and the occupants thereof, and (2) provide and maintain parks and sewage, water, lights and other facilities adjacent to or in connection with housing projects, and (3) open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other such facilities, and (4) change the map of a political subdivision or plan, replan, zone or rezone any part of a political subdivision;

(c) enter into agreements with the authority with respect to the exercise of their powers relating to the repair, closing or demolition of unsafe, insanitary or unfit dwellings;

(d) employ (notwithstanding the provisions of any other law as to what constitute legal investments) any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the authority, in the purchase of the bonds or other obligations of the authority to the extent provided by section 19 of Act 190 (Series D-188) of the Session Laws of Hawaii 1935, or any amendment thereof; and exercise all the rights of any holder of such bonds or other obligations;

(e) do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction of such housing projects; and

(f) enter into contracts with the authority or the United States for any period agreeing to exercise any of the powers conferred hereby or to take any other action in aid of such housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements

HOUSING PROJECTS.

SERIES B-55.—ACT 90.]

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located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction and operation of housing projects, the commissioner of public lands, the Hawaiian Homes Commission and any other officers of the Territory having power to manage or dispose of its public lands, may, with the approval of the governor and with or without consideration, grant, sell, convey or lease for any period, any parts of such public lands (without limit as to area) to the authority or the United States of America or any agency thereof.

Any law or statute to the contrary notwithstanding, any gift, grant, sale, conveyance, lease or agreement provided for in this section may be made by the Territory, its political subdivisions and agencies, without appraisal, public notice, advertisement or public bidding."

Section 2. Severability clause. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 3. Act controlling. Insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 4. Effective date. This Act shall take effect upon its approval.

(Approved April 24, 1939.) **S.B. 264, ACT 90.**

[Sec. 2398. **Honolulu exceptions.** Added by Act 242, infra, page 134.]

CHAPTER 80. LICENSES.**AUTOMOBILE DEALERS AND SALESMEN**

[B-56] An Act to Provide for the Licensing of Motor Vehicle Dealers and Salesmen and the Regulation of the Sale of Motor Vehicles and to Prohibit Fraudulent and Unfair Practices in the Business of Selling Motor Vehicles and Installment Contracts Arising Out of Such Sales.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2432A.] Section 1. **Definitions.** This Act shall be known and may be cited as the "Automobile Dealers' and Salesmen's Licensing Act".

As used in this Act:

"Person" includes individuals, firms, co-partnerships, associations, corporations and all combinations of individuals of whatsoever form and character.

"Treasurer" means the treasurer of each county and the city and county.

"Motor vehicle" includes any vehicle, motor vehicle or truck as defined in chapter 70 of the Revised Laws of Hawaii 1935, as amended.

"Business" includes any activities engaged in by any person or caused to be engaged in by him for the object of gain, benefit or advantage either direct or indirect.

"Engaging in business" means commencing, conducting or continuing in business as well as liquidating a business when the liquidator thereof holds himself out to be conducting such business. However, making a casual or isolated sale is not engaging in business.

"Retail sale" or "sale at retail" shall mean the act or attempted act of selling, bartering or exchanging or otherwise disposing of a motor vehicle to a person for use as a consumer. Other forms of the same expression shall have the same meaning expressed in appropriate form.

"Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement or otherwise payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

"Board" shall mean the Motor Vehicle Dealers' and Salesmen's Licensing Board, defined and created by this Act.

"Dealer" includes all persons as hereinbefore defined, regularly engaged in the business of selling, displaying, offering for sale or dealing in motor vehicles at an established place of business which is used for the purpose of selling, displaying, offering for sale or dealing in motor vehicles. For the purpose of this definition, a place of business which is used for selling, displaying, offering for sale or dealing in motor vehicles shall be deemed to be used for these purposes even though there is maintained at such place of business repair, accessory, gasoline and oil, storage, parts, service or paint department.

"Salesman" includes any person as hereinbefore defined who for a commission, compensation or other valuable consideration is employed by a dealer to sell, display and offer for sale or deal in motor vehicles. Neither of the terms "dealer" or "salesman" hereinbefore defined includes public officers who are performing their official duties.

[Sec. 2432B.] **Section 2. Unlicensed persons not to engage in business.** No person other than a salesman or dealer licensed according to the provisions of this Act shall engage in the business of selling motor vehicles at retail within this Territory on and after the effective date of this Act.

[Sec. 2432C.] **Section 3. Dealers license, application.** No dealer as herein defined shall, on or after the effective date of this Act, engage in the business of selling at retail motor vehicles in this Territory or assume to engage in such business without first having a license therefor excepting that in the case of the dissolution of a partnership by death the surviving partner or partners may operate under the license for a period of sixty days and the executors or administrators of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person so succeeded in possession by such executor, administrator, receiver or trustee in bankruptcy.

Each dealer applying for a license shall, on or before the effective date of this Act, and annually thereafter prior to the expiration of his license, make out and deliver to the treasurer upon a blank to be furnished by such treasurer for that purpose a separate application for license for each county in which such business is to be conducted. The application shall be in writing, in the form prescribed by the treasurer with the approval of the board, and shall be signed and verified by the oath of the applicant, or in the case of a corporation or unincorporated association, by the proper officers thereof, or, if a partnership, by a majority of the members thereof.

The application, in addition to such other information as may be required by the treasurer with the approval of the board, shall include the following:

- (1) Name of applicant and location of principal place of business;
- (2) Name or style under which business is to be conducted;
- (3) Name and address of each owner, or partner, and, if a corporation, the names of the officers and directors;
- (4) The address of each place of business at which the business is to be conducted;
- (5) If new motor vehicles are to be sold, the make, or makes, to be handled;
- (6) A statement of the previous history, record and association of the applicant and of each owner, partner, officer and director, which statement shall be sufficient to establish to the satisfaction of the treasurer the reputation in business of the applicant;
- (7) A statement showing whether or not the applicant has previously applied for a license under this Act and the result of such application, and whether or not the applicant has ever been the holder of such a license which was revoked or suspended;

(8) If the applicant is a corporation or co-partnership, a statement showing whether or not any of the partners, employees, officers or directors have been refused such a license, or have been the holder of such a license which was revoked or suspended;

(9) If the applicant is to engage in the business of selling new motor vehicles, such written evidence, in the form of an affidavit or otherwise, as will satisfy the treasurer that the applicant is or will be duly authorized by the manufacturer or authorized distributor of such motor vehicles to act as a distributor or dealer in such motor vehicles in the county in which such application is filed.

[Sec. 2432D.] **Section 4. Dealers: What persons shall not be licensed.** The treasurer shall deny the application of any person for a license as a motor vehicle dealer and refuse to issue him a license as such if the treasurer finds that such applicant (1) has intentionally made a false statement of a material fact in his application, or (2) has not complied with the provisions of this Act or with any rule or regulation of the board issued hereunder, or (3) is engaged, or will engage, in the business of selling at retail any new motor vehicles without having authority of a contract with a manufacturer, or distributor, thereof, or (4) has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles, or (5) has entered into, or is about to enter into, a contract, or agreement, with a manufacturer, or distributor, of motor vehicles which is contrary to any provision of this Act, or (6) is insolvent, or (7) has no established place of business which is used, or will be used, for the purpose of selling, displaying, and offering for sale or dealing in motor vehicles.

In the case the applicant is a corporation, or copartnership, the treasurer may refuse to issue a license if any officer, director, employee, or partner of the applicant has been guilty of any act, or omission, which would be cause for refusing or revoking a license issued to such officer, director, employee, or partner as an individual. The treasurer's finding may be based on facts contained in the application, or any other information which he may have. Immediately upon denying an application for any of the reasons provided herein, the treasurer shall enter a final order, together with his findings, and certify same to the board hereinafter created.

An applicant who has been refused a license may appeal from the action of the treasurer to the board in the manner prescribed in section 11 of this Act.

[Sec. 2432E.] **Section 5. Salesmen's license, application.** No salesman, as herein defined, shall, on or after the effective date of this Act, engage in the business of selling at retail motor vehicles in this Territory or assume to engage in such business without first having a license therefor issued under this Act.

Each salesman shall, on or before the effective date of this Act, and annually thereafter, prior to the expiration of his license, make out and deliver to the treasurer upon a blank to be furnished by such treasurer for that purpose an application for license. The application shall be in writing, in the form prescribed by the treasurer with the approval of the board, and shall be signed and verified by oath of the applicant.

The application shall contain such information as required by the treasurer with the approval of the board, and shall contain the following:

- (1) Name and post office address of applicant;
- (2) Name and post office address of the motor vehicle dealer for whom the applicant intends to act as salesman;
- (3) Statement of applicant's previous history, record and association, which statement shall be sufficient to establish the applicant's business reputation;
- (4) Statement as to whether or not the applicant intends to engage in any occupation, or business, other than that of a motor vehicle salesman;
- (5) Statement as to whether or not the applicant has ever had any previous application refused, or whether or not he has previously had a license revoked or suspended;
- (6) Statement as to whether or not the applicant was an employee of, or salesman for, a dealer whose license was suspended or revoked;
- (7) Statement of the motor vehicle dealer named therein, designating the applicant as his salesman.

[Sec. 2432F.] Section 6. Salesmen, what persons shall not be licensed. The treasurer shall deny the application of any person for a license as a salesman, and refuse to issue such license if he finds that such applicant (1) has made any false statement of a material fact in his application, or (2) has not complied with the provisions of this Act or with any rule or regulation of the board issued hereunder, or (3) has been guilty of any fraudulent act in connection with the business of selling motor vehicles, or (4) has not been designated to act as salesman for a motor vehicle dealer duly licensed to do business in this Territory under the provisions of this Act, or intends to act as salesman for more than one licensed motor vehicle dealer at one time.

The treasurer may refuse to issue a salesman's license to an applicant who was salesman for, or in the employ of, a motor vehicle dealer at the time such dealer's license was revoked. The treasurer's finding may be based on any statement contained in the application or any facts within his knowledge and immediately upon refusing to issue a salesman's license he shall enter a final order and shall certify such final order together with his findings to the board. The applicant whose application for salesman's license has been denied may appeal to the board in the manner prescribed in section 11 of this Act.

[Sec. 2432G.] Section 7. Licenses; forms, fees, expiration, exhibiting. The treasurer, with the approval of the board, shall prescribe the forms for licenses of automobile dealers and automobile salesmen and shall issue such license at the time he grants an application therefor. All licenses shall include the name and post office address of the person licensed.

The annual fee for a dealer's license shall be fifty dollars for dealers engaged in the sale of new and used motor vehicles and twenty-five dollars for dealers engaged exclusively in the sale of used motor vehicles, and the annual fee for a salesman's license shall be five dollars. In all cases the fee shall accompany the application for license.

Dealers' and salesmen's licenses shall remain in force for the period of one year from the date of issuance unless sooner suspended or revoked. A salesman's license shall expire upon termination of the license of the motor vehicle dealer for whom he is acting, or upon his leaving the service of such motor vehicle dealer. No license issued under this Act shall be transferable. Each dealer shall keep a license or a certified copy of a license posted in a conspicuous place in each place of business. Each salesman shall carry his license or a certified copy thereof and shall exhibit such license or certified copy thereof upon demand by any person with whom he seeks to transact business as a motor vehicle salesman. A license issued under this Act shall authorize the doing of business thereunder only in the county in which the same has been issued.

In case any license is not granted, the fee shall be returned to the applicant at the time he is notified that his application has been refused.

[Sec. 2432H.] Section 8. Change of status, supplemental statement. If the status of any licensed motor vehicle dealer shall change during the period for which the license is issued in respect to: (1) personnel of owners, partners, officers, or directors, or (2) location of office or principal place of business, or (3) authorization of the licensee by a manufacturer, or distributor, to act as distributor of, or dealer in, new motor vehicles within the Territory of Hawaii, the licensee shall within fifteen days thereafter file with the treasurer a supplemental statement on a form prescribed by the treasurer showing in what respects such status has been changed.

[Sec. 2432I.] Section 9. County boards. There shall be appointed for each county in the manner prescribed by section 80 of the Organic Act, a board to be known as the "Motor Vehicle Dealers' and Salesmen's Licensing Board" consisting of five members for the city and county of Honolulu, and three members for each of the other counties. The members shall be appointed by the governor, and each of such members shall have been engaged in the business of selling motor vehicles at retail in the Territory of Hawaii for a period of at least five years and shall have been continuously engaged in such business for a period of two years immediately preceding the date of his appointment. For the city and county of Honolulu, two of the members to be appointed shall be, or shall have been, engaged as dealers primarily in the sale of new motor vehicles, two of the members to be appointed shall be, or shall have been, engaged primarily in the sale of used motor vehicles, and one of the members to be appointed shall be solely and exclusively engaged as a salesman of new or used motor vehicles. For the counties other than the city and county of Honolulu, two of the members shall be, or shall have been, engaged primarily as new motor vehicle dealers, and one of the members shall be solely and exclusively engaged as a salesman, as aforesaid. The term of office of the members of the board shall be two years. Immediately upon the appointment and qualification of the original members, and annually thereafter, the board shall organize by selecting from its members a chairman. The members of the board shall serve without compensation.

[Sec. 2432J.] Section 10. Secretary, assistants, directors. The board may appoint and at pleasure remove a secretary and such other assistants as its business may from time to time require and may prescribe their duties and fix their compensation.

The board may publish, or cause to be published, each year a directory or list of licensed dealers and salesmen, and may publish therewith such matter as it may deem pertinent to the law and shall mail one copy of such directory to such licensed dealers and salesmen without charge.

[Sec. 2432K.] Section 11. **Appeals from orders of treasurer; suspension, revocation.** The board shall hear appeals which may be taken from any order of the treasurer refusing to issue a license. All appeals from any order of the treasurer refusing to issue any license must be taken within thirty days from the date of such order or such order shall be considered final and conclusive. All appeals from orders of the treasurer must be by petition in writing and verified under oath by the applicant whose application for license has been denied and must set forth the reason for such appeal and the reason why, in the petitioner's opinion, the order of the treasurer is not correct. In case of such appeals the board shall have full power to make investigation to determine the correctness and legality of the order of the treasurer.

The board may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the conduct of any licensee under this Act and shall suspend or revoke or notify the treasurer to refuse to renew any dealer's or salesman's license at any time, if any ground existed upon which such license might have been refused, or if a ground exists which would be cause for refusal to issue a license.

The board may suspend or revoke any license at any time if the licensee has in any manner violated the regulations issued pursuant to this Act, or has violated any law relating to the selling of motor vehicles, or the taxing, licensing, or regulation of sales of motor vehicles.

[Sec. 2432L.] Section 12. **Rules and regulations, subpoenaing witnesses.** The board may from time to time make, amend and repeal such rules and regulations, not inconsistent with this Act, as the board shall deem appropriate for the carrying out of the provisions and purposes of this Act, and the efficient administration thereof. The board may hear testimony in matters relating to the duties imposed upon it by law, and the chairman and secretary of the board may administer oaths. The board may require any proof it may deem advisable and shall have power to require the attendance of such witnesses and the production of such books, records and papers as it may desire at any hearing before it or relating to any matter which it has authority to investigate and for that purpose may, through its secretary, issue a subpoena for any witness or a subpoena duces tecum for the production of any books, records and papers directed to the sheriff of the county where such witness resides or is found which shall be served and returned in the same manner as a subpoena issued out of a circuit court is served and returned.

The fees and mileage of witnesses shall be the same as that allowed in the circuit courts and shall be paid in the same manner as other expenses of the board.

Depositions of witnesses residing within or without the Territory may be taken by the board in the manner prescribed by law for like depositions in civil actions. In any case of disobedience to, or neglect

of any such subpoena served on any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated by the board, any circuit judge of any judicial circuit wherein such disobedience, neglect, or refusal occurs, on application of the secretary of the board, may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

[Sec. 2432M.] Section 13. **Notice of hearing.** The board shall, before suspending, revoking, or causing a license to be refused, afford the licensee an opportunity to be heard in person, or by counsel, with reference thereto. Notice of such hearing may be served in person, or by registered mail addressed to the address shown on the application. No hearing shall be held within fifteen days after notice has been served.

[Sec. 2432N.] Section 14. **Records; appeals to circuit court.** The board shall keep a record of its proceedings and shall have authority upon application of an interested party or upon its own motion and notice to the interested parties to reverse, vacate or modify its own orders. The circuit court of the circuit in which an application for a license has been refused, or in which a license has been revoked or suspended, shall have jurisdiction to affirm, vacate or modify any order of said board.

Any applicant whose application has been refused, or any licensee whose license has been suspended or revoked by an order of the board, may file an appeal therefrom in the office of the clerk of the circuit court of such circuit within thirty days from the entry thereof. The proceedings shall not, however, operate to suspend such order unless upon proper order of a court of competent jurisdiction. Such action may be upon the ground that such order is unreasonable or contrary to law and shall be prosecuted against the treasurer and the motor vehicle dealers' and salesmen's licensing board. The defendants shall be served with summons as in civil actions.

Upon service of summons upon the board, the secretary shall forthwith transmit to the clerk of the court in which the action is pending a transcript of the original papers filed with him, if any, and a certified transcript of all evidence adduced at the hearing before the board in the matter complained of. Such transcript shall be filed with the clerk of the court within fifteen days after service of summons. Upon the filing of the transcript said action shall be at issue and upon the application of either party may be advanced and assigned for trial at the earliest possible date.

[Sec. 2432O.] Section 15. **Duties of prosecutor, city and county attorney and county attorneys.** It shall be the duty of the public prosecutor and the city and county attorney of the city and county of Honolulu and of the county attorneys of the several counties to render assistance to the treasurer upon his request, and to the board upon its request, in enforcing and carrying out the provisions of this Act and in prosecuting and defending proceedings thereunder.

[Sec. 2432P.] Section 16. **Retail installment contracts; agreements concerning unlawful.** No person who is engaged in, or about to engage in, the business of selling motor vehicles at retail shall enter into any contract, agreement, or understanding, express or implied, with any manufacturer or distributor of motor vehicles that he will sell only to

a designated person, or class of persons, all or any part of the retail installment contracts arising out of the sale by him of motor vehicles, or that he will refuse to sell such retail installment contracts to any designated person, or class of persons. Any such contract, agreement, or understanding is hereby declared to be against the public policy of this Territory and to be unlawful and void.

[Sec. 2432Q.] **Section 17. Coercion by manufacturer or distributor unlawful.** No person, being a manufacturer or distributor of motor vehicles, or being an officer, agent or representative of such manufacturer or distributor, shall induce or coerce, or attempt to induce or coerce, any retail motor vehicle dealer or prospective retail motor vehicle dealer to sell or refuse to sell all or any portion of his retail installment contracts to any person or class of persons designated by such manufacturer or distributor, by means of any statement, suggestion, promise or threat, made directly or indirectly, that such manufacturer or distributor will in any manner injure or benefit such a dealer, or by means of any act of such manufacturer or distributor that has benefited or injured such dealer, or by means of any statement or representation, made directly or indirectly, that such dealer is under any obligation whatsoever to make or refuse to make such sale.

[Sec. 2432R.] **Section 18. Retail installment contracts, when purchase of unlawful.** No person engaged in the business of buying retail installment contracts from motor vehicle dealers in this Territory, and no officer, agent or representative of such person, shall purchase or attempt to purchase any such retail installment contract from any motor vehicle dealer in this Territory:

(a) When such dealer in consequence of any contract, agreement or arrangement between such person and a manufacturer or distributor supplying motor vehicles to such dealer has been induced or coerced to sell such retail installment contract by means of any statement, suggestion, promise or threat, made directly or indirectly, that the manufacturer or distributor supplying motor vehicles to such dealer would in any manner injure or benefit such dealer, or by means of any act of such manufacturer or distributor that has benefited or injured such dealer, or by means of any statement or representation, made directly or indirectly, that such dealer is under any obligation whatsoever to make such sale;

(b) When such person has received or has contracted to receive from any manufacturer or distributor supplying motor vehicles to such dealer, or has given or contracted to give to such manufacturer or distributor, any subsidy or thing of service or value, where the effect of the giving or receiving of such subsidy or thing of service or value may be to lessen or eliminate competition in the business of purchasing retail installment contracts from motor vehicle dealers or tend to grant an unfair trade advantage or to create a monopoly in such person.

[Sec. 2432S.] **Section 19. Selling without license, penalty.** Whoever engages in the business of selling, displaying, offering for sale or dealing in motor vehicles at retail without having a license therefor as required by this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars or more than five hundred dollars and upon conviction for a second or subsequent offense shall be fined not less than five hundred dollars or more than one thousand dollars.

[Sic] [Sec. 2432T.] Section 20. **Installment contract violations; penalty.** Whoever violates any of the provisions of section 16, 17, or 18 of this Act relating to sales or purchases of retail installment contracts shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars, nor more than one thousand dollars.

[Sec. 2432U.] Section 21. **Other violations, penalty.** Whoever violates any of the provisions of this Act or any lawful rule or regulation promulgated by the treasurer or motor vehicle dealers' and salesmen's licensing board under authority of this Act for the violation of which no penalty is provided by law, shall be fined not less than twenty-five dollars nor more than five hundred dollars.

[Sec. 2432V.] Section 22. **Board funds; payment of expenses; disposition of realizations.** There is created in the treasury of each county a special fund to be known as the "Motor Vehicle Dealers' and Salesmen's Licensing Board Fund" into which shall be paid all fees and other moneys collected or received by the treasurer of the board under the provisions of this Act. All expenses of the board and the treasurer, incurred under the provisions of this Act, shall be paid out of such fund upon vouchers approved by the board, signed by the chairman and countersigned by the secretary. The board of supervisors of each county is directed to advance to the board from the general fund of the county such moneys as may be necessary to meet all of its expenses until such time as it shall be in receipt of sufficient funds for such purpose. The general fund shall be reimbursed out of the fees received by the treasurer under this Act. The board shall annually authorize the payment by the treasurer into the road fund of any moneys in the Motor Vehicle Dealers' and Salesmen's Licensing Board Fund which the board shall deem to be in excess of its requirements, taking into consideration estimated future receipts and expenditures.

[Sec. 2432W.] Section 23. **Information in applications confidential; penalty for divulging.** The applications for licenses and contracts required by the provisions of sections 2 and 4 of this Act shall not be deemed a part of the public records but shall be confidential information for the use of the treasurer and the board. Whoever, except in a report to the treasurer or the board or when called on to testify in any court or proceeding, divulges any information contained in such applications and acquired by him in his capacity as an official or employee of the county, or city and county treasurer's office or of the board shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars and not more than one hundred dollars.

[Sec. 2432X.] Section 24. **Liberal interpretation.** All provisions in this Act relating to the licensing of automobile dealers and salesmen and designating and granting power to the treasurer and the board shall be liberally construed to the end that the practice or commission of fraud in the business of selling motor vehicles may be prohibited and prevented.

[Sec. 2432Y.] Section 25. **Sections 2509, 2510 and 2511 not to apply.** The provisions of sections 2509, 2510 and 2511 of the Revised Laws of Hawaii 1935, shall not apply to salesmen or dealers licensed under the provisions of this Act.

FISHING AND HUNTING LICENSES.

SERIES B-56.—ACT 258.]

SERIES B-57.—ACT 199.]

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[Sec. 2432Z.] Section 26. **Constitutionality.** If any provision of this Act shall be held unconstitutional, such holding shall not affect any of the other provisions of this Act, not inseparably connected in meaning and effect with such provision so held unconstitutional.

Section 27. **Effective date.** This Act shall become effective on July 1, 1939.

(Approved May 17, 1939.) **S.B. 296, ACT 258.**

FISHING AND HUNTING.

[B-57] An Act To Amend Section 2465 of the Revised Laws of Hawaii 1935, Relating to Fishing and Hunting.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2465 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“**Sec. 2465. License fees.** License fees shall be as follows: For a bona fide citizen and resident of the Territory, five dollars for a county hunting license and two dollars and fifty cents for a fishing license; for a citizen non-resident of the Territory, or to an alien who has declared his intentions of becoming a citizen according to law, ten dollars for a county hunting license and two dollars and fifty cents for a fishing license; and for an alien, twenty-five dollars for a county hunting license and five dollars for a county fishing license; excepting that no alien shall be issued a hunting license without his first having procured a license to own or use a gun.

Any person who has procured a county hunting license shall be entitled to receive a territorial hunting license upon making application to the board of agriculture and forestry setting forth the fact that he holds such county hunting license and accompanying the application with a fee of five dollars (\$5.00). A territorial hunting license shall entitle the holder thereof to hunt throughout the Territory.” [L. 1907, c. 116, s. 3; am. L. 1921, c. 29, s. 1; am. L. 1925, c. 75, s. 4; R. L. 1935, s. 2465; am. L. 1939, c. 199, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1939.) **H.B. 326, ACT 199.**

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[SERIES B-58.—Act 109.
[SERIES B-59.—Act 107.]

PEDDLERS.

[B-58] An Act to Amend Chapter 80 of the Revised Laws of Hawaii 1935, As Amended by Act 182 of the Session Laws of Hawaii 1935, Relating to License Fees of Peddlers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2498 of the Revised Laws of Hawaii 1935, as amended by Act 182 of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

“Sec. 2498. Fees. The fee for license to peddle merchandise shall be as follows:

The fee for an annual license shall be \$75.00 and the fee for a quarterly or three months' license or period less than three months shall be \$30.00; provided, that no license shall be required of persons peddling fish, fresh fruit, leis, flowers or vegetables, nor of any person who is a citizen of the territory and who has reached the age of seventy years.

A license to peddle merchandise shall authorize the holder thereof to peddle only in the county or city and county which is named in the license.” [L. 1907, c. 96, pt. of s. 1; am. L. 1917, c. 122, s. 1; am. L. 1923, c. 111, s. 1; R. L. 1935, s. 2498; am. L. 1935, c. 182, s. 1; am. L. 1939, c. 109, s. 1.]

Section 2. This Act shall take effect on July 1, 1939.

(Approved April 26, 1939.) **H.B. 235, Act 109.**

POISONOUS DRUGS

[B-59] An Act To Amend Section 2501 of the Revised Laws of Hawaii 1935, Relating to Licenses for Poisonous Drugs.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2501 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“Sec. 2501. Fees; permit. The annual fee for a license to sell poisonous drugs generally shall be twenty-five dollars. The annual fee for a license to sell poisonous household remedies, rodent, insect, or weed destroyers authorized to be sold under section 1410, shall be two dollars.

No such license shall be issued unless the applicant presents a permit therefor from the board of health.” [L. 1896, c. 64, s. 86; am. L. 1933, c. 119, s. 1; R. L. 1935, s. 2501; am. L. 1939, c. 107, s. 1.]

Section 2. This Act shall take effect upon its approval

(Approved April 26, 1939.) **S.B. 267, Act 107.**

VEHICLES AND DRIVERS FOR HIRE

[**B-60**] An Act To Amend Sections 2527 and 2528 of the Revised Laws of Hawaii 1935, Relating to Fees for Vehicle Licenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first paragraph of section 2527 of the Revised Laws of Hawaii 1935, is hereby amended by striking out the final period, inserting in lieu thereof a comma, and adding thereto the following:

"provided, however, that where a license has already been paid on a vehicle, and that vehicle is, within the taxable year, replaced by another vehicle, the unexpired portion of the fee paid on the vehicle so replaced shall be credited to the fee payable for the vehicle making such replacement, and the unexpired portion of the fee already paid shall, for the purpose of computing the fee payable on the replacing vehicle, be deducted from the fee payable on such replacing vehicle."

Section 2. Section 2528 of the Revised Laws of Hawaii 1935, is hereby amended by striking out the final period, inserting in lieu thereof a comma, and adding thereto the following:

"provided, however, that where a license has already been paid on a vehicle, and that vehicle is, within the taxable year, replaced by another vehicle, with the same or a larger carrying capacity, the amount of the license paid on the replaced vehicle shall be pro-rated as to the expired and unexpired time which the license has still to run and that portion representing the unexpired time shall be credited to the fee payable for the vehicle making such replacement, and said fee already paid shall, for the purpose of computing the fee payable on such replacing vehicle be deducted from the fee payable on such replacing vehicle; provided further, that where the license fee for such replacing vehicle is less than the pro-rata amount for the unexpired license already paid on the vehicle replaced, no fee shall be assessed for operating such replacing vehicle."

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1939.) **H.B. 310, Act 123.**

CHAPTER 81. FIREARMS AND AMMUNITION.

[B-61] An Act to Amend Section 2549, Revised Laws of Hawaii 1935, Relating to Sale, Transfer and Possession of Firearms and Ammunition.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2549, Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 2549. Exemptions. The provisions of sections 2544-2547 shall not apply to members of police departments, sheriffs, marshals, members of military and naval forces of the Territory and of the United States, mail carriers, law enforcement officers, or to regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from the Territory, provided such members are at or going to or from their places of assembly or target practice, or persons employed by the Territory or subdivisions thereof or the United States whose duties require them to be armed, while such persons are in the performance of their respective duties, or while going to and from their respective places of duty, nor shall the provisions of sections 2541 and 2542 apply to such firearms or ammunition as are a part of the official equipment of any federal agency.” [L. 1933—4, c. 26, s. 11; R. L. 1935, s. 2549; am. L. 1939, c. 10, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved March 20, 1939.) **S.B. 18, ACT 10.**

CHAPTER 82. INTOXICATING LIQUOR.

[B-62] An Act to Amend Section 2580 of the Revised Laws of Hawaii 1935, as Amended, Relating to Classes of Liquor Licenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2580 of the Revised Laws of Hawaii 1935, as amended by Act 105 (Series B-58) of the Session Laws of Hawaii 1935, and by Act 211 (Series B-61), of the Session Laws of Hawaii 1937, is hereby amended by changing the “period” at the end of the first sentence of the paragraph thereof entitled “Class 1. Manufacturers’ licenses” to a “comma” and inserting thereafter the following:

“and to sell draught beer in any quantity to any person for private use and consumption.”

Section 2. Said section 2580 is hereby further amended by inserting, after the first sentence of the paragraph thereof entitled “Class 3. Wholesale dealers’ licenses.” the following:

“Such license shall authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption.”

Section 3. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 3, ACT 71.**

[B-63] An Act To Amend Chapter 82 of the Revised Laws of Hawaii 1935, as Amended, Relating to Intoxicating Liquor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 82 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

(1) By amending section 2580 thereof, as amended, by striking the period at the end of the paragraph thereof entitled "Class 3. Wholesale dealers' licenses.", inserting in lieu thereof a semi-colon, and by adding the following immediately thereafter:

"Provided, however, that nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation passenger service between any two or more ports in the territory."

(2) By adding to said section 2580, immediately after the paragraph relating to class 7, a new paragraph to read as follows:

"7-A. Additional vessel licenses. A general license may be granted to the owner of any vessel which does not fall within class 7 for the sale of liquor (other than alcohol) on board such vessel while in any port of the territory. Such sales shall be made only for consumption by passengers and their guests on board such vessel. Such license shall be issuable in each county where such sales are to be made and the application for such license may be made by any agent representing the owner."

(3) By adding to said section 2580, immediately after the paragraph relating to class 8, a new paragraph to read as follows:

"The provisions of sections 2601, as amended, 2602, 2603, 2604 and 2605, as amended, shall not apply to class 7, class 7-A and class 8."

(4) By amending section 2581 thereof, as amended, by adding thereto, immediately after the item reading "7. Vessel, . . . \$60.00", the following:

"7-A. Additional vessel licenses, per day\$5.00"

(5) By adding to said chapter a new section to be designated section 2581-A and to read as follows:

"Sec. 2581-A. Special powers, privileges and rights. The following special powers, privileges and rights are hereby granted, anything in this chapter contained to the contrary notwithstanding.

(1) Any person arriving in the territory may bring with him for private use and consumption and not for resale, any liquor not exceeding one gallon, without any requirement as to securing a license;

(2) Any religious organization may import or receive into the territory sacramental wine for use in the religious rites of such religious organization without any requirement as to securing a license;

(3) Any consul general, consul or vice consul of any foreign country may import or receive into the territory, for private use and consumption, any liquor without any requirement as to securing a license."

(6) By amending section 2590 thereof by deleting the period at the end of said section, substituting in lieu thereof a semi-colon, and by adding thereto the following:

"provided, however, that the holder of any manufacturer's license or a wholesale dealer's license issued by the liquor commission of any county may, through authorized agents or representatives, solicit and take orders for direct shipment for liquor in permitted quantities in any other county.

Any person desiring to act as the authorized agent or representative of a manufacturer or wholesale dealer in any county shall make application to the liquor commission of such county in which he proposes to act for a permit to act as such.

Such application shall state the name of the applicant, his nationality, age, residence and place of business, the name and address of the manufacturer or wholesale dealer he represents and shall be accompanied by a statement from such manufacturer or wholesale dealer to the effect that the applicant has been appointed as its agent or representative. The fee for such permit shall be five dollars for each license year (commencing July 1 and ending on the succeeding June 30) or fraction thereof, and shall be renewable each July 1. All sales and all orders taken for liquor by any such agent or representative shall be subject to the rules and regulations of the liquor commission for the county within which such sales are made or orders taken.

No such agent or representative shall be permitted to have, own or control any liquor for sale."

(6a) By amending section 2593 thereof, as amended, by adding at the end thereof a new paragraph reading as follows:

"(6) After May 1, 1939, to sell at wholesale in any county any liquor including beer, at a price less than the price at which such liquor has been posted for a period of at least twenty days with the liquor commission of that county."

(7) By amending section 2597 thereof, to read as follows:

"Sec. 2597. Public hearing. No license shall be granted except after a public hearing held by the commission upon notice as in this chapter provided." [L. 1933-4, c. 40, s. 27; R. L. 1935, s. 2597; am. L. 1939, c. 205, pt. of s. 1.]

(8) By amending section 2600 thereof, as amended, to read as follows:

"Sec 2600. Report by inspector. On every application so referred to him the inspector shall report in writing to the commission and, if the application be for a license of any class other than class 7, class 7-A or class 8, such report shall show:

1. A description of the premises intended to become the licensed premises, and the equipment and surrounding conditions;

2. If the application be made by a person who has held a prior license for the same or any other premises within two years past, a statement as to the manner in which the premises have been operated and the business conducted under such previous license;

3. The locality of any church, chapel or school in the neighborhood, if any;
4. The number, position and distance from the premises, in respect of which a license is applied for, of any other licensed premises in the neighborhood;
5. The number of licenses of the same class or kind already issued and being lawfully exercised within the county;
6. Whether or not in the opinion of the inspector the applicant is a fit and proper person to have a license;
7. Whether or not the applicant is for any reason disqualified by any provision of this chapter from obtaining or exercising a license; and whether or not he has complied with all the requirements of this chapter relative to the making and filing of his application;
8. Any and all other matters and things which in the judgment of the inspector pertain to or affect the matter of the application or the issuance or the exercise of the license applied for;
9. His recommendation for or against the granting of the application, specifying his reasons therefor.” [L. 1933-4, c. 40, s. 31; R. L. 1935, s. 2600; am. L. 1937, c. 211, s. 15; am. L. 1939, c. 205, pt. of s. 1.]

(9) By amending section 2605 thereof, as amended, to read as follows:

“Sec. 2605. Renewals. Upon the filing of an application for the renewal of an existing license, the commission may, in its discretion, grant or refuse the same.” [L. 1933-4, c. 40, s. 36; R. L. 1935, s. 2605; am. L. 1935, c. 105, s. 12; am. L. 1937, c. 211, s. 16; am. L. 1939, c. 205, pt. of s. 1.]

(10) By amending section 2605-A thereof as enacted by Act 211 of the Session Laws of Hawaii 1937, to read as follows:

“Sec. 2605-A. Reduction or increase in area of licensed premises. The commission may, in its discretion, permit the reduction or the increase in the area of the licensed premises of any licensee. Whenever any reduction or increase is permitted, the same shall be endorsed in some appropriate manner upon the license.” [L. 1937, c. 211, s. 17; am. L. 1939, c. 205, pt. of s. 1.]

(11) By amending section 2619 thereof to read as follows:

“Sec. 2619. Arrest. Any inspector or police officer who observes any violation by any person of any of the provisions of this chapter or of any rule or regulation of the commission, shall forthwith arrest such person without a warrant. Whenever any violation of this chapter or of the regulations of the commission occurs in the presence of any licensee, or any inspector or police officer, upon request of such licensee such police officer or inspector may assist such licensee in arresting any patron for violation thereof.” [L. 1933-4, c. 40, s. 50; R. L. 1935, s. 2619; am. L. 1939, c. 205, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **H.B. 253, ACT 205.**

CHAPTER 83. MOTOR VEHICLES; CHAUFFEUR'S LICENSE; REGISTRATION.

PART 1. CHAUFFEURS.

[B-64] An Act Amending Act 234 of the Session Laws of Hawaii 1937, By Adding A New Section Thereto to Be Numbered as "Section 5A", Creating a Special Restriction on Operators of Motorcycles.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 234 of the Session Laws of Hawaii 1937, is hereby amended by adding thereto a new section to be numbered "Section 5A", which section shall follow section 5 of said Act and shall read as follows:

[Sec. 2650E-1.] "Section 5A. Special restriction upon operators of motorcycles.

(a) No person shall operate a motorcycle until he has been licensed as a motorcycle operator.

(b) No such license shall be granted until the examiner of chauffeurs shall be fully satisfied as to the applicant's competency and fitness to operate a motorcycle.

(c) No person who is under the age of twenty (20) years shall receive a license as an operator of motorcycles unless his application fulfills all the requirements of section 8, subsection (a), hereinafter set out, the provisions of subsections (b) and (c) of said section 8 being hereby made fully applicable to all applicants for operators' motorcycle licenses."

Section 2. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **H.B. 249, Act 114.**

[B-65] An Act to Amend Act 234, Series B-62 of the Session Laws of Hawaii 1937, Entitled "Uniform Motor Vehicle Operator's and Chauffeur's License Act", By Adding to Section 8 Thereof a New Paragraph to Be Designated (d).

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8 [Sec. 2650 H.] of Act 234, series B-62 of the Session Laws of Hawaii 1937, is hereby amended by adding thereto a new paragraph to be designated (d) and to read as follows:

"(d) A non-resident minor shall be accorded all the privileges and be subjected to all the regulatory restrictions as are by this Act provided for resident minors."

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1939.) **H.B. 371, Act 106.**

CHAPTER 84. UNIFORM AUTOMOBILE LIABILITY SECURITY ACT.

[B-66] An Act to Amend Chapter 84, as Amended, of the Revised Laws of Hawaii 1935, Relating to Financial Responsibility of Operators of Motor Vehicles.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 84 of the Revised Laws of Hawaii 1935 is hereby amended by amending section 2686 thereof, as amended by Act 186, Series B-61, of the Session Laws of Hawaii 1935, to read as follows:

"Sec. 2686. Proof of financial responsibility required when chauffeur's or operator's license becomes subject to revocation. Whenever a chauffeur's or operator's license has been revoked upon a conviction of any offense, a chauffeur's or operator's license shall not at any time thereafter be issued to the person whose license has been revoked until such person has furnished proof of financial responsibility; and whenever the treasurer, for any violation, has the right in his discretion to revoke or suspend a chauffeur's or operator's license, but is disposed, in the exercise of his discretion, not to do so, he shall nevertheless suspend such license until the holder thereof has furnished proof of financial responsibility." [L. 1933, c. 166, s. 7; R. L. 1935, s. 2686; am. L. 1935, c. 186, s. 1; am. L. 1939, c. 99, s. 1.]

Section 2. Said chapter 84 is further amended by amending section 2696 thereof to read as follows:

"See. 2696. Proof of financial responsibility to be maintained. Whenever in accordance with the provisions of this chapter a person has furnished proof of financial responsibility for the purpose of obtaining a chauffeur's or operator's license or the registration of a motor vehicle owned by him, it shall be obligatory upon such person thereafter to maintain such proof and, in the event that such proof lapses or becomes diminished in security or amount, it shall be the duty of the treasurer to suspend the chauffeur's or operator's license and certificates, if any, in connection with which such proof was furnished, until such proof sufficient in amount has again been furnished; provided, however, that any person, who has been convicted of any offense where the revocation of such license is not mandatory and, as a consequence thereof, has been required to furnish such proof, may, at the expiration of one year from the date of such conviction, whether or not such proof has been furnished, apply to the court in which such conviction became final for a review of the circumstances of his offense and conviction and for a cancellation of the requirement of proof, and the court, if satisfied from the evidence submitted that the applicant has been a safe and careful driver during the aforesaid one-year period (in case he has been legally operating a motor vehicle during said period), or if otherwise satisfied that the request should be granted, may effect the cancellation requested, notifying the treasurer of its action; and provided, further that any person who has been convicted of any offense where the revocation of such license is mandatory and, as a consequence thereof, has been required to furnish such proof, may, at the expiration of two years from the date of such conviction, whether or not such proof has been furnished, apply to the court in which such conviction became final for a review of the circumstances of his offense and conviction and

for a cancellation of the requirement of proof, and the court, if satisfied from the evidence submitted that the applicant has been a safe and careful driver during the aforesaid two-year period (in case he has been legally operating a motor vehicle during said period), or if otherwise satisfied that the request should be granted, may effect the cancellation requested, notifying the treasurer of its action." [L. 1933, c. 166, s. 17; R. L. 1935, s. 2696; am. L. 1939, c. 99, s. 2.]

Section 3. Said chapter 84 is further amended by adding thereto a new section to be numbered 2707, to read as follows:

"Sec. 2707. When treasurer may release proof. The treasurer shall upon request cancel any bond or any certificates of insurance, or the treasurer shall direct the return to the person entitled thereto of any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the treasurer shall waive the requirement heretofore imposed of filing proof of financial responsibility, in any of the following events:

(a) When such person is no longer required to maintain such proof under the provisions of this chapter;

(b) Upon the death of the person on whose behalf such proof was filed;

(c) In the event of the permanent incapacity of such person to operate a motor vehicle if such person surrenders for cancellation his operator's or chauffeur's license;

provided, however, that the treasurer shall not release such proof;

(1) If any action for damages upon a liability referred to in this chapter is then pending, or

(2) If any judgment upon any such liability is outstanding and unsatisfied; and

an affidavit of the applicant of the non-existence of such facts as enumerated in subsections (1) and (2) hereof shall be *prima facie* evidence of their non-existence."

Section 4. Other laws amended to conform. Any law or portion thereof in conflict with the provisions of this Act is hereby amended to conform thereto.

Section 5. Constitutionality. If any portion of this Act, or of said chapter 84 as amended by this Act, or the application thereof to any person or circumstance, is held to be unconstitutional or invalid, the remainder of this Act, or of said chapter 84 as amended by this Act, or the application of such portion to other persons or circumstances, shall not be affected.

Section 6. Effective date. This Act shall take effect from and after the date of its approval.

(Approved April 26, 1939.) **S.B. 11, ACT 99.**

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SERIES B-67.—ACT 88.]

SERIES B-68.—ACT 56.]

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Title XII. COUNTY GOVERNMENT.

CHAPTER 86 . GOVERNMENT OF KAUAI, MAUI, HAWAII AND KALAWAO.

GENERAL POWERS, LIABILITIES AND LIMITATIONS OF COUNTIES.

[B-67] An Act to Amend Section 2802 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Furnishing of Free School Books to Students in the Public Schools in the County of Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That certain sentence added to paragraph 5 of section 2802 of the Revised Laws of Hawaii 1935, by Act 70, Series B-63, of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"The board of supervisors of the county of Kauai is hereby authorized and directed to purchase school books prescribed by the department of public instruction for the use, without charge, of students attending all public schools in said county."

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1939.) **S.B. 49, Act 88.**

COUNTY OFFICERS.

[Sec. 2805. Designation. Amended by Act 104, infra, page 127.]

SALARIES.

[B-68] An Act to Amend Section 2816 of the Revised Laws of Hawaii 1935, As Amended, Relating to Salaries of County Officers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2816 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the item reading:

"Treasurer, County of Hawaii.....\$3,300.00" to read:

"Treasurer, County of Hawaii.....\$3,600.00"

and by amending the item reading:

"County Clerk, County of Hawaii.....\$3,300.00" to read:

"County Clerk, County of Hawaii.....\$3,600.00".

Section 2. This Act shall take effect and be in force from and after July 1, 1939.

(Approved April 14, 1939.) **H.B. 160, Act 56.**

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[SERIES B-69.—ACT 60.
[SERIES B-70.—ACT 124.]

[B-69] An Act to Amend Section 2816 of the Revised Laws of Hawaii 1935, As Amended by the Session Laws of Hawaii 1937, Series B-63, Act 56, Relating to Salaries of County Officers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2816 of the Revised Laws of Hawaii 1935, as amended by Session Laws of 1937, Series B-63, Act 56, is hereby amended by adding a new item under the heading "County of Maui", to read as follows:

"Deputy sheriff, district of Lanai.....\$3,000.00".

Section 2. Section 2816 of the Revised Laws of Hawaii 1935, as amended by Session Laws of 1937, Series B-63, Act 56, is hereby amended by amending the item reading

"Deputy sheriff, district of Molokai\$2,700.00"
to read

"Deputy sheriff, district of Molokai.....\$3,000.00".

Section 3. This Act shall take effect on July 1, 1939.

(Approved April 19, 1939.) **H.B. 270, ACT 60.**

[Sec. 2816 also amended by Act 104, infra, page 127.]

POWERS AND DUTIES OF BOARDS OF SUPERVISORS.

[B-70] An Act Providing for the Regulation of Chimneys and Smokestacks and the Emission of Dense Smoke, Soot or Poisonous Gases Therefrom by Amending Sections 2833 and 3021 of the Revised Laws of Hawaii 1935, and Requiring the Boards of Supervisors of the City and County of Honolulu and of the County of Maui to Enact Ordinances With Respect Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 7 of section 2833 of the Revised Laws of Hawaii 1935, is hereby amended by inserting a "comma" and the word "soot" after the word "smoke" in the third line thereof.

[Sec. 2848, amended by Act 104, infra, page 127.]

Section 2. Paragraph 5 of section 3021 of said Revised Laws is hereby amended by inserting a "comma" and the word "soot" after the word "smoke" in the third line thereof.

Section 3. The boards of supervisors of the City and County of Honolulu and of the County of Maui are hereby directed to enact suitable ordinances covering the subject matter contained in paragraph 7 of section 2833, and in paragraph 5 of section 3021, of said Revised Laws.

Section 4. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **H.B. 217, ACT 124.**

MAUI POLICE DEPARTMENT.

[B-71] An Act Amending Chapter 86 of the Revised Laws of Hawaii 1935, by Adding Thereto a New Subtitle and Fifteen New Sections, to be Numbered 2849A to 2849-O Inclusive, Providing for a Police Commission for the County of Maui, Prescribing Powers and Duties of Such Commission, Providing for a Police Department for the County of Maui and Amending Certain Other Sections Herein Mentioned.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935 is hereby amended by adding after section 2849, a new subtitle and fifteen new sections reading as follows:

"Police Department, County of Maui.

Sec. 2849A. Organization. The police department of the county of Maui shall consist of a police commission, chief of police and force of police officers and such other officers, clerks and employees, as said commission may from time to time prescribe, appointed in the manner herein provided. The provisions of this subtitle shall apply only to the county of Maui. As used in this subtitle, 'board' means board of supervisors and 'commission' means the police commission.

Sec. 2849B. Police commission. Appointment. A police commission is created, consisting of five members, all of whom shall not belong to the same political party at the time of appointment. The members of the commission shall be appointed, and may be removed, by the governor in the manner provided by section 80 of the Organic Act. No member of the commission shall be a salaried officer or employee of the Territory or any political subdivision thereof. Any member becoming a candidate for any elective office ipso facto vacates his office as such member. Each commissioner must be at the time of his appointment an elector of the county and must have been such for at least three years next preceding his appointment. The commissioners shall serve without remuneration, but may be reimbursed for their reasonable traveling and other expenses incurred in the discharge of their duties. The commission may employ such clerks, employees and other assistants as it may find necessary and for which funds are available.

Sec. 2849C. Term of office. One of said commissioners shall be appointed for a term to expire June 30, 1940, one for a term to expire June 30, 1941, one for a term to expire June 30, 1942, one for a term to expire June 30, 1943 and one for a term to expire June 30, 1944. Upon the expiration of the term of each commissioner his successor shall be appointed for a term to expire five years from the date of the expiration of the preceding term. Any vacancy in said commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term.

Sec. 2849D. General powers of the commission. The commission shall hold regular public meetings at a designated time and place. The commission shall elect its chairman and a majority shall constitute a quorum for the transaction of business, provided that a vote of three members shall be necessary to validate the appointment or removal of the chief of police. In the absence of the chairman the remaining members shall elect an acting chairman. The commission shall adopt such rules and regulations as it may consider necessary for the conduct

of its business and regulation of the matters herein committed to its charge.

Sec. 2849E. Classifications, training and promotions. The rules and regulations of the commission shall, among other things, provide for the proper training of police officers, and a merit system having for its purpose a systematic method of promotion of police officers based upon efficiency, service and outstanding performance of official duties.

Sec. 2849F. Chief of police. The commission shall appoint and may remove at pleasure a chief of police, who shall devote his full time to the duties of his office, and must at the time of his appointment have been a resident of the Territory for three years. Subject to the rules and regulations prescribed by the commission, he shall have control, management and direction of all officers and employees serving under him with full power to detail any of such officers or employees to such public service as he may direct.

Sec. 2849G. Police force, employees. The chief of police shall have the power to appoint police officers and other officers and employees under such rules and regulations and at such salaries as may be authorized by law, but the commission may abolish any office or position in the department, in which event, when necessary, the commission shall determine which of several officers or employees in the same class shall be released. Such rules and regulations shall provide that appointments may be made in the first instance for a probationary period of not over one year. The chief of police, with the approval of the commission, may appoint and remove without cause instructors of the police, who need not have any residential qualifications. Except as otherwise provided, all acts or duties which may be performed by the chief of police may in like manner and with like effect be performed by any police officer under him.

Sec. 2849H. Powers and duties of chief of police. The chief of police shall have all of the powers and shall perform all of the duties required by law to be performed by the sheriff, and all of the powers and duties of the sheriff are hereby transferred to, vested in and imposed upon the chief of police. He shall consult and advise with the commission and act with its approval in all matters pertaining to the police department not herein specifically provided for, and shall make such reports from time to time as the commission shall require, and shall annually make a report to the commission of the state of affairs and condition of the police department.

Sec. 2849I. Suspension. Removal. Political activities prohibited. The removal and suspension of any officer or employee under the chief of police shall be in the manner provided by the rules and regulations of the commission; provided that the chief of police shall have the absolute right to suspend for a period or periods, not exceeding in the aggregate sixty days in any calendar year, any officer or employee under him for incompetence, neglect of duty, drunkenness or failure to obey orders given him by proper authority, or for any other just cause, and such suspension shall be final and without appeal or review; provided, further, that any such officer or employee removed or suspended for a period exceeding, or which, added to any previous suspensions, exceeds sixty days in any calendar year, may, within ten days from the date of the service upon him of a certified copy of the order so removing or suspending him, or, in case he cannot be found, within twelve days from the mailing of such certified copy by registered mail

addressed to him at his last known address, apply to the commission for a review of the case; the commission shall thereupon have power, in its discretion, either to entertain or to refuse to entertain such appeal; if it entertains such appeal, it may affirm, set aside, amend or modify such order, or make such further order, as in its judgment the facts shall warrant. The decision of the commission refusing to entertain an appeal, or its order upon any appeal allowed, shall be final. No officer or employee shall receive any compensation for the period of any suspension, unless after entertaining an appeal the commission shall so order. This section shall not apply to any appointment made for a probationary period. No member of the police department shall, aside from exercising the right to vote, support, advocate or aid in the election or defeat of any candidate for public office. Upon satisfactory proof of such prohibited activity being made to the appointing power by whom the offending member was appointed, such offending member shall be summarily dismissed from the police department.

Sec. 2849J. Appropriations. The board, upon request of the commission, shall appropriate from time to time, for the use of the police department, sums aggregating not less than one hundred fifty thousand dollars (\$150,000.00) per annum from such funds as are available by law for such purpose, plus the amounts necessary to meet all annual salary increases provided for by section 2849-O. The board may from time to time in its discretion appropriate from the proper funds additional moneys to be used by the police department.

Sec. 2849K. Disbursement of funds. All moneys appropriated for the police department shall be disbursed by the county treasurer only upon warrants issued by the county auditor on vouchers signed by the chairman or acting chairman of the commission.

Sec. 2849L. Hearings by commission. In all investigations made by the commission and in all proceedings before it relative to the police department or the officers or employees thereof, the commission and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the commission or any member thereof or of any subpoena issued by it or him or of the refusal of any witness to testify to any matters regarding which he may be questioned lawfully, it shall be the duty of any circuit judge, on application by the commission or a member thereof, to compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid out of any appropriations available for the use of the police department.

Sec. 2849M. Quarters. The board shall make available to the police department sufficient and proper quarters in the police station in each district in the county for the use of the police department and shall maintain and keep the same in repair.

Sec. 2849N. Pensions. Any person employed in the police force (as that term is used in chapter 259, part 3) of the county immediately prior to July 1, 1939, and not continued in employment by the chief of police or the commission and who would have been entitled to a pension under the terms of said chapter if dismissed from service with-

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cut cause immediately prior to July 1, 1939, shall be entitled to receive such pension as he would have been entitled to receive had he been so dismissed; and all persons who are members of said police force immediately prior to July 1, 1939, and are continued in employment in the police department shall have all the rights and benefits under the terms of chapter 259, part 3, or of chapter 260, as if this subtitle had not been enacted.

Sec. 2849-O. Salaries. (1) The chief of police shall receive a salary of \$4,800.00 per year.

(2) The commission shall fix the salary of each captain, provided that such salary shall be not less than \$2,400 per year nor more than \$3,600 per year.

(3) The annual basis salary of other regular sworn members of the police department shall be as follows:

[Sic]	Years of Service in position.	Position and Annual Salary	
	Patrolman	Sergeant	Lieutenant
First	\$1,320	\$1,680	\$1,920
Second	1,380	1,740	1,980
Third	1,440	1,800	2,040
Fourth	1,500	1,860	2,100
Fifth	1,560	1,920	2,160
Sixth	1,620	1,920	2,160
Seventh and subsequent	1,680	1,920	2,160

(4) All original appointments of patrolmen shall be at the basic salary of \$1,320 per year, and the first year of service shall be probationary. The salary of each special police officer shall be \$480 per year regardless of his length of service in the department.

(5) No annual increase in salary shall be paid to any member of the police department unless in the opinion of the commission, after a report from the chief of police, such member has rendered satisfactory service.

(6) For purposes of application of the salary schedule to individuals employed in the police department prior to the effective date of this Act, each person shall be given the first year's salary of the particular position in which he is classified, except that any person classified and employed in the position of patrolman shall receive the salary indicated for the particular year of his service within said department; provided, that regardless of his length of service no patrolman shall receive a salary in excess of \$1,500 per year for the first year after the effective date of this Act.

(7) The salaries of necessary employees of the department which are not prescribed by this section shall be fixed by the commission."

Section 2. Transfer of property. All properties of every kind and nature and all records now in the custody and use of the sheriff of the county of Maui and his department, are hereby transferred to the police department, and the commission may transfer back to the board of supervisors any property or records which may be found unnecessary for its use in carrying out its duties.

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Section 3. Transfer of present appropriation. All appropriations made by the board of supervisors of said county for the use of the sheriff's department for the year 1939, are hereby transferred to the police department for its use during said year and shall be considered an apportionment made by said board as required by section 2849J of said Revised Laws.

Section 4. Section 2805 of said Revised Laws is hereby amended to read as follows:

"Sec. 2805. Designation. The officers of each county shall be a board of supervisors, a county clerk who shall be ex-officio clerk of the board of supervisors, an auditor, a county attorney, a treasurer, and in the counties of Hawaii and Kauai a sheriff who shall be ex-officio coroner, and in the county of Maui a chief of police who shall be ex-officio coroner, and such other officers as may be provided by law; all of whom shall be elected or appointed as provided by law."

Section 5. Section 2816 of said Revised Laws, as amended by Act 14, Series B-66, of the Session Laws of Hawaii 1935, is hereby amended by eliminating therefrom the office of, and salaries payable to, the sheriff of the county of Maui and deputy sheriffs of the various districts of the county of Maui.

Section 6. Section 2848 of said Revised Laws, as amended by Act 15, Series B-68, of the Session Laws of Hawaii 1935, is hereby further amended by substituting for the words "counties of Maui and" in line 2 thereof the words "county of", and by deleting from lines 20 to 22 thereof the words: "The deputy sheriff of the district of Wailuku, county of Maui, shall, ex-officio, be the deputy sheriff of the county of Maui."

Section 7. Wherever (a) in the following sections of the Revised Laws of Hawaii 1935, to-wit, sections 259, 518, 522, 749, 1157, 1237, 1247, 2157, 2413, 2457, 2459, 2460, 2494, 2529, 2541, 2542, 2547, 2550, 2650, 2842, 2844, 2846, 2847, 3652, 3725, 3913, 4190, 4402, 4403, 4405, 4406, 4409, 4551, 4582, 5036, 5444, 5448, 5460, 5481, 5542, 5551, 5583, 6289, 6401, 6462, 6465, 6839, 7790 and 7796; or (b) in any other law of the Territory, or in any ordinance of the county of Maui, or in any rule or regulation of any public board or commission having the effect of law: the words "sheriff" or "deputy sheriff" appear, or reference is made to the sheriff or deputy sheriff, such words shall mean, and such reference shall be deemed to be made to, the chief of police of the county of Maui, or any of his subordinates thereunder duly authorized, as may be appropriate, insofar as the same apply to or concern the county of Maui.

Section 8. Constitutionality. If any section, subsection, sentence, clause or phrase of this Act is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 9. This Act shall take effect on and after July 1, 1939, provided that the members of the commission may be appointed at any time prior thereto; that the commission may make its rules and regulations; and that either the commission or the chief of police appointed by it may make appointments, prior thereto, which appointments shall take effect July 1, 1939.

(Approved April 26, 1939.) **S.B. 258, ACT 104.**

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[SERIES B-72.—ACT 155.

[SERIES B-73.—ACT 156.

GENERAL PROVISIONS.

[B-72] An Act To Amend Section 2884, Revised Laws of Hawaii 1935, Relating to the Appointment of Deputies of County Officers, the Removal Thereof and the Powers of Such Deputies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That section 2884 of the Revised Laws of Hawaii 1935, is hereby amended so as to read as follows:

"Sec. 2884. **Deputies, appointment, removal, powers.** The clerk, auditor, attorney and treasurer of each county may each appoint a deputy and, with the approval of the board of supervisors, may appoint additional deputies, to undertake and perform or aid in the performance of the duties of his office, and may at his pleasure remove the same, and if more than (1) deputy is appointed they shall be designated according to their priority in rank, such as first deputy, second deputy, etc., such appointment shall be in writing and a copy thereof filed in the office of the county clerk and county auditor; each deputy shall have the same powers as his principal and whenever by law an act is required to be performed by an officer it shall be valid if performed by a deputy; provided, that in cases of any vacancy occurring in any county office for which a deputy has been duly appointed during the term for which the principal officer was elected, the deputy duly appointed or, in case of more than one deputy, the deputy designated as first deputy shall have the power and perform the duties of such office until the successor of the principal officer is appointed and qualified." [L. 1905, c. 54; am. L. 1925, c. 170, s. 1; am. L. 1933, c. 198, s. 1; R. L. 1935, s. 2884; am. L. 1939, c. 155, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 337, ACT 155.**

[B-73] An Act To Amend Section 2889 of the Revised Laws of Hawaii 1935, as Amended by Act 128, Series B-70, of the Session Laws of Hawaii 1935, Relating to Advertisement of Bills and Resolutions, and Amendments of Ordinances, in the Counties of Hawaii, Maui and Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2889 of the Revised Laws of Hawaii 1935, as amended by Act 128, Series B-70, of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

"Sec. 2889. **Advertisement of bills and resolutions, and amendments of ordinances.** In the counties, every bill or resolution for any specific improvement, or involving the appropriation, lease or disposition of public property, or the exercise of the power of eminent domain, and every ordinance providing for the imposition of a new duty or penalty except as hereinafter provided, shall, after its introduction, be published in a newspaper, with the ayes and noes, at least once, Sundays and legal holidays excepted, before final action on the same. If such bill or resolution be substantially amended, the bill or resolution providing for such amendment, shall be advertised for a like period before

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SERIES B-73.—ACT 156.]

SERIES B-74.—ACT 195.]

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final action thereon; provided, however, that no ordinance shall be revised, reenacted or amended by reference to its title, but the ordinance to be revised or reenacted or the section or any paragraph thereof amended, shall be reenacted at length as revised and/or amended; provided that the ordinance as a whole may be revised or codified and adopted and reenacted as revised or codified by an ordinance passed for that purpose.

It is provided, however, that nothing contained in this section shall prohibit the adoption of resolutions upon one reading for the purpose of creating safety zones, loading zones, quiet zones, traffic lanes and cross-walks, in connection with traffic ordinances, and such resolutions need not be published; provided, further, that no person shall be punished for violating such resolutions unless the zones, lanes and walks to be created are clearly designated by legible markers or signs." [L. 1923, c. 26, pt. of s. 1; R. L. 1935, s. 2889; am. L. 1935, c. 128, s. 1; am. L. 1939, c. 156, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 313, ACT 156.**

KAUAI COUNTY DENTIST.

[**B-74**] An Act Authorizing and Directing the Board of Supervisors of the County of Kauai to Appoint a County Dentist to Care for Indigent Patients, and to Appropriate Funds for His Equipment, Salary and Expenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2892F.] Section 1. [**Dentist, appointment, qualifications.**] The board of supervisors of the county of Kauai is hereby authorized and directed to appoint a county dentist, whose full time duty it shall be to care for, free of charge for either services or materials, the dental needs of all indigents in said county. He shall be a person duly licensed to practice dentistry under chapter 28 of the Revised Laws of Hawaii 1935, and approved by the dental society of said county. He shall accept no fees from any patients, whether indigents or not, his salary being in full compensation for all dental services rendered, of whatsoever nature.

In determination of indigency, and of what patients are in need of dental work, the county dentist shall cooperate with the board of public welfare, the unemployment compensation commission, the board of health district nurses, and any other welfare or social agencies of the county of Kauai.

He shall render a monthly report of all his official activities to the board of supervisors.

[Sec. 2892G.] Section 2. [**Appropriations.**] The board of supervisors of said county is hereby authorized and directed forthwith to appropriate from the general fund of the county the sum of five thousand five hundred dollars (\$5,500.00) for the purchase of a mobile dental unit for said county, to be in the charge of the county dentist,

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and to appropriate from said fund annually for the following purposes the sums set opposite thereto:

Supplies, county dentist.....	\$1,000.00
Salary of county dentist	3,000.00
Miscellaneous expenses, county dentist	700.00

Reduction in said annual amounts may be made by the board to the extent of any funds which may be made available to it for such purposes under the Federal Social Security Act.

Section 3. This Act shall take effect upon its approval, provided, that the annual appropriations to be made for the remainder of the year 1939 shall be one-half the said annual sums in this Act mentioned.

(Approved May 8, 1939.) S.B. 447, Act 195.

MAUI COUNTY DENTIST.

[B-75] An Act Authorizing and Directing the Board of Supervisors of the County of Maui to Appoint a County Dentist to Care for Indigent Patients, and to Appropriate Funds for His Equipment, Salary and Expenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2908A.] Section 1. [Dentist, appointment, qualifications.] The board of supervisors of the county of Maui is hereby authorized and directed to appoint a county dentist, whose full time duty it shall be to care for, free of charge for either services or materials, the dental needs of all indigents in said county. He shall be a person duly licensed to practice dentistry under chapter 28 of the Revised Laws of Hawaii 1935, and approved by the dental society of said county. He shall accept no fees from any patients, whether indigents or not, his salary being in full compensation for all dental services, rendered, of whatsoever nature.

In the determination of indigency, and of what patients are in need of dental work, the county dentist shall cooperate with the board of public welfare, the unemployment compensation commission, the board of health district nurses, and any other welfare or social agencies of the county of Maui.

He shall render a monthly report of all his official activities to the county physician.

[Sec. 2908B.] Section 2. [Appropriations] The board of supervisors of said county is hereby authorized and directed forthwith to appropriate from the general fund of the county the sum of five thousand five hundred dollars (\$5,500.00) for the purchase of a mobile dental unit for said county, to be in the charge of the county dentist, and to appropriate from said fund annually for the following purposes the sums set opposite thereto:

Supplies, county dentist	\$1,000.00
Salary of county dentist	3,000.00
Miscellaneous expenses, county dentist	700.00

Reduction in said annual amounts may be made by the board to the extent of any funds which may be made available to it for such purposes under the Federal Social Security Act.

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Section 3. This Act shall take effect upon its approval, provided, that the annual appropriations to be made for the remainder of the year 1939 shall be one-half the said annual sums in this Act mentioned.

(Approved May 6, 1939.) **S.B. 448, ACT 185.**

MOLOKAI WATER COMMISSION.

[B-76] An Act Relating to Public Works On the Island of Molokai, County of Maui, and Creating A Molokai Water Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2912A.] Section 1. [Creation of commission.] There is hereby created a water commission for the island of Molokai. Such commission shall function when the board of supervisors of the county of Maui shall, by ordinance, provide for the membership of such commission, who shall serve without pay, and the method of appointment, removal and term thereof.

[Sec. 2912B.] Section 2. [Powers.] Such commission when established shall have the power to construct an irrigation and domestic water system and to contract with the government of the United States of America or any bureau or agency thereof with regard to the construction or the financing of such system. The commission shall have power to charge and collect water rates for service from such water system to defray the cost and maintenance of the system and to service the obligations of such commission. It is authorized to issue revenue bonds or other obligations payable from its revenues. Revenue bonds issued shall be similar in character to those authorized by law in regard to rate of interest, maturity, and manner of execution, for agencies now authorized to issue revenue bonds. It shall also have the right to acquire, by eminent domain, water and water sources, water sheds, reservoir sites, rights-of-way over lands and property for ditches, tunnels, flumes and pipe lines necessary or proper for the construction and maintenance of a system for conveying, distributing and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating and maintaining an irrigation and domestic water system. Such right of eminent domain shall be exercised in the manner and under the procedure provided by law for irrigation corporations, with the additional right to enter into possession provided by section 68 of the Revised Laws of Hawaii 1935, as amended. It shall also have such powers as may be necessary or proper to the full exercise of the powers hereinabove enumerated, and such further powers as may be granted by said board of supervisors lying within the general scope of the purpose of such commission and not inconsistent with this Act.

[Sec. 2912C.] Section 3. [Saving clause.] If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each sec-

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tion, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 4. This Act shall take effect upon its approval.

(Approved May 17, 1939.) **S.B. 34, Act 248.**

HAWAII SUPERVISORS.

[B-77] An Act To Amend Section 2915 of the Revised Laws of Hawaii 1935, as Amended by Act 210 of the Session Laws of 1935, Relating to Transportation of School Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2915 of the Revised Laws of Hawaii 1935, as amended by Act 210 of the Session Laws of 1935, is hereby further amended by adding thereto the following:

"The board of supervisors of the county of Hawaii is hereby authorized and empowered to establish suitable routes for the transportation, free of charge, of school children attending the schools within the county, whenever the board, in its discretion, shall deem it necessary and proper so to do."

Section 2. This Act shall take effect upon its approval.

(Approved April 11, 1939.) **S.B. 113, Act 39.**

HAWAII COUNTY DENTIST.

[B-78] An Act Authorizing and Directing the Board of Supervisors of the County of Hawaii to Appoint a County Dentist to Care for Indigent Patients, and to Appropriation Funds for His Equipment, Salary and Expenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2918A.] Section 1. [Dentist, appointment, qualifications.] The board of supervisors of the county of Hawaii is hereby authorized and directed to appoint a county dentist, whose full time duty it shall be to care for, free of charge for either services or materials, the dental needs of all indigents in said county. He shall be a person duly licensed to practice dentistry under chapter 28 of the Revised Laws of Hawaii 1935, and approved by the dental society of said county. He shall accept no fees from any patients, whether indigents or not, his salary being in full compensation for all dental services rendered, of whatsoever nature.

In the determination of indigency, and of what patients are in need of dental work, the county dentist shall cooperate with the board of public welfare, the unemployment compensation commission, the board of health district nurses, and any other welfare or social agencies of the county of Hawaii.

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He shall render a monthly report of all his official activities to the county physician.

[Sec. 2918B.] Section 2. [Appropriations.] The board of supervisors of said county is hereby authorized and directed forthwith to appropriate from the general fund of the county the sum of five thousand five hundred dollars (\$5,500.00) for the purchase of a mobile dental unit for said county, to be in the charge of the county dentist, and to appropriate from said fund annually for the following purposes the sums set opposite thereto:

Supplies, county dentist	\$1,000.00
Salary of county dentist	3,000.00
Miscellaneous expenses, county dentist	700.00

Reductions in said annual amounts may be made by the board to the extent of any funds which may be made available to it for such purposes under the Federal Social Security Act.

Section 3. This Act shall take effect upon its approval, provided, that the annual appropriations to be made for the remainder of the year 1939 shall be one-half the said annual sums in this Act mentioned.

(Approved May 6, 1939.) **S.B. 341, ACT 184.**

Title XIII. HONOLULU GOVERNMENT.

CHAPTER 88. CITY AND COUNTY OF HONOLULU.

[B-79] An Act Relating to the Government of the City and County of Honolulu, Providing for the Revision of its Powers, Duties and Functions, for the Coordination of the Same With Those of Certain Other Governmental Departments, for the Coordination of Other Laws With Such Provisions, Amending Chapters 78, 79, 88, 92, 93, 94, 95, 137, 144 and 145, of the Revised Laws of Hawaii 1935.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 78 of the Revised Laws of Hawaii 1935 is hereby further amended in the following respects:

(1) By amending section 2310 thereof to read as follows:

“Sec. 2310. **Bonds of county and city and county officers; form.** Every bond required to be given by any officer, deputy, assistant, clerk or employee, in any department, bureau, office or service, of any county or city and county, or municipality, shall be made payable to the county, city and county or municipality, as the case may be, and shall be substantially in the form prescribed in section 134, provided, that no

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such bond shall be deemed sufficient or be accepted unless the surety thereon be a corporation such as is mentioned in section 160." [L. 1915, c. 67, s. 1; R. L. 1935, s. 2310; am. L. 1939, c. 242, pt. of s. 1.]

(2) By amending section 2311 thereof to read as follows:

"Sec. 2311. Approval of bonds. The sufficiency of the bonds of the members of the several boards of supervisors and the mayor of the city and county of Honolulu shall be approved by a judge of the circuit court having jurisdiction over or within the county or city and county, as the case may be, and all other bonds shall be approved as to sufficiency by the officer with whom the same are required to be deposited." [L. 1915, c. 67, s. 2; R. L. 1935, s. 2311; am. L. 1939, c. 242, pt. of s. 1.]

(3) By amending section 2321 thereof to read as follows:

"Sec. 2321. Salaries of county officers and employees full compensation; moneys payable into treasury. The salaries provided by law for county officers or employees shall be in full compensation for all services rendered, and every such officer or employee shall pay all moneys belonging to the county coming into his hands as such officer or employee, no matter from what source derived or received, into the county treasury within thirty days after receipt of the same." [L. 1921, c. 8, s. 1; R. L. 1935, s. 2321; am. L. 1939, c. 242, pt. of s. 1.]

Section 2. Chapter 79 of said Revised Laws is hereby further amended in the following respects:

(4) By amending section 2362 thereof to read as follows:

"Sec. 2362. Notice. The notice specified in section 2361 shall be given by (a) either publishing the same in a daily newspaper of general circulation in the county or city and county where the sidewalks or curbs are to be constructed, maintained or repaired, once in each of three consecutive weeks, or personal service by an officer or employee of the county or city and county of a copy of such notice upon the owner of each particular piece of property concerned, or by both such publication and service, and (b) by posting, at some time within 10 days before or after the inception of the proceedings to give such notice, a copy of the notice upon the premises in front of which sidewalks or curbs are to be so constructed, maintained or repaired. The sixty days specified in section 2361 shall run from the last day of publication (where the notice is so published) or (where no such notice is published) as to each owner so served, from the date of such personal service upon him." [L. 1920, c. 10, s. 1; R. L. 1935, s. 2362; am. L. 1939, c. 242, pt. of s. 2.]

(5) By adding thereto a new section, to be numbered section 2398, reading as follows:

"Sec. 2398. Honolulu exceptions. Nothing in this chapter contained shall be construed as limiting in any way the powers of the city planning commission of the city and county of Honolulu."

Section 4. Chapter 88 of said Revised Laws is hereby further amended in the following respects:

(1) By repealing section 3003 thereof;

(2) By deleting from section 3004 thereof the words "or county of Oahu" at the end of the first paragraph thereof, and the words "or the heretofore existing county of Oahu" at the end of the second paragraph thereof;

(3) By amending section 3007 thereof to read as follows:

"Sec. 3007. Assistants to board; rules; journal; behavior. The board shall: (1) appoint such committee clerks and other assistants as may be deemed necessary; (2) establish rules for its proceedings; (3) keep a journal of its proceedings, in which the ayes and noes, which shall be taken upon demand of any member, shall be entered; (4) have authority, upon an affirmative vote of at least five members, to suspend without pay for not more than one month, any member for disorderly or contemptuous behavior in its presence, and, upon an affirmative vote of a majority of those present, to expel any other person who shall be guilty of disorderly, contemptuous or improper conduct at any meeting." [L. 1907, c. 118, s. 9; am. L. 1919, c. 62, s. 1; R. L. 1935, s. 3007; am. L. 1939, c. 242, pt. of s. 4.]

(4) By amending section 3009 thereof to read as follows:

"Sec. 3009. Regular meetings. The board shall hold regular meetings on the first Tuesday after the first Monday of each month, or on the following day if any such Tuesday be a holiday. It may also hold other regular meetings and special meetings on such other days as it shall determine. The meetings of the board shall be public. The board shall not adjourn to any other than its regular meeting place except in case of great necessity or emergency." [L. 1907, c. 118, s. 11; R. L. 1935, s. 3009; am. L. 1939, c. 242, pt. of s. 4.]

(5) By amending section 3010 thereof to read as follows:

"Sec. 3010. Enacting clauses of ordinances and resolutions. The enacting clause (a) of every ordinance shall be 'Be it ordained by the people of the city and county of Honolulu' and (b) of every resolution shall be 'Be it resolved by the board of supervisors of the city and county of Honolulu'." [L. 1907, c. 118, s. 12; R. L. 1935, s. 3010; am. L. 1939, c. 242, pt. of s. 4.]

(6) By amending section 3011 thereof to read as follows:

"Sec. 3011. Legislative acts of board by ordinance or resolution; passed how. Every legislative act of the board of supervisors, except approval or disapproval of resolutions of the city planning commission, shall be by ordinance or resolution passed on three readings, on separate days, final passage of which shall be by a majority vote of the members of the board, taken by ayes and noes with the names of the members voting for and against entered in the journal.

No such bill or resolution shall be so amended as to change its original purpose." [L. 1907, c. 118; s. 13; R. L. 1935, s. 3011; am. L. 1939, c. 242, pt. of s. 4.]

(7) By amending section 3012 thereof to read as follows:

"Sec. 3012. Revision or amendment. No ordinance or resolution having the effect of an ordinance shall be revised, reenacted or amended by reference to its title, but the same, or the section or portion

thereof amended, shall be reenacted at length as revised or amended; provided, however, that the ordinance or resolution as a whole may be revised or codified and adopted and reenacted as revised or codified by an ordinance passed for that purpose." [L. 1907, c. 118, s. 14; am. L. 1920, c. 16, s. 1; R. L. 1935, s. 3012; am. L. 1935, c. 100, s. 1; am. L. 1939, c. 242, pt. of s. 4.]

(8) By amending section 3013 thereof to read as follows:

"**Sec. 3013. Title.** An ordinance or resolution having the effect of an ordinance shall embrace but one subject, which subject shall be expressed in its title. If any such ordinance or resolution embrace any subject not expressed in its title, the same shall be void only as to so much thereof as is not expressed in its title." [L. 1907, c. 118, s. 15; R. L. 1935, s. 3013; am. L. 1939, c. 242, pt. of s. 4.]

(9) By amending section 3014 thereof to read as follows:

"**Sec. 3014. Reconsideration; time for.** When a bill or such a resolution is put upon its final passage in the board and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be acted upon before the expiration of twenty-four hours after adjournment. Every ordinance and every such resolution shall, after amendment, be laid over for one week before its final passage." [L. 1907, c. 118, s. 16; R. L. 1935, s. 3014; am. L. 1939, c. 242, pt. of s. 4.]

(10) By amending section 3016 thereof to read as follows:

"**Sec. 3016. Publication before final action.** Every bill or resolution of the board of supervisors involving the lease, appropriation or disposition of public property, and every ordinance of the board providing for the imposition of a new duty or penalty, shall, after its introduction, be published in a daily newspaper with the ayes and noes once at least three days (Sundays and legal holidays excepted) before final action upon the same; if such bill or resolution be substantially amended, it shall be so advertised as amended for a like period before final action thereon; provided, however: (1) that after the enactment of any ordinance relating to the method of establishment, marking, and effect of the establishment, of the same, and the rights, duties and liabilities incidental thereto, or arising in respect of the same, a resolution having the force of law may be adopted upon one reading and without publication, creating, defining, re-defining, eliminating or changing bus stops, safety stops, parking zones, no-parking zones, safety zones, loading zones, quiet zones, safety lanes, traffic lanes, or crosswalks, other laning or marking of highways, traffic lights, and streets and intersections where right or left turns or U-turns may or may not be made; (2) that no person shall be punished for violating any such resolution, or any ordinance to which such resolution refers, as to the matter established by such resolution, unless the stops, speed limits, zones, lanes, marks, or streets or intersections where such turns may or may not be made, are clearly designated by legible markers or signs, and, in the case of lanes or lines, clearly painted on the pavement; and (3) that nothing herein contained shall be deemed to prohibit the delegation to any traffic safety commission of the powers specified in subsection 9 of section 3021. Nothing herein shall prevent adoption of a revision or revisions of the city and county ordinances by an ordinance incorporating such revision by reference." [L. 1907, c. 118, s. 17; am. L. 1911, c. 91, s. 1;

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am. L. 1919, c. 62, s. 2; am. L. 1927, c. 30, s. 1; am. L. 1933, c. 98, s. 2; R. L. 1935, s. 3016; am. L. 1939, c. 242, pt. of s. 4.]

(11) By amending section 3017 thereof to read as follows:

“Sec. 3017. Veto appropriation items. If any bill or resolution be presented to the mayor containing several items appropriating money he may object to one or more items separately, while approving other items thereof; provided, however, that in the case of an annual appropriation ordinance, the provisions of section 3067.10 shall govern. In case of a veto the mayor shall append to the bill or resolution at the time of signing it a statement of the item or items to which he objects and the reasons therefor, and the item or items (or portion of an item vetoed under section 3067.10) so objected to shall not take effect unless passed notwithstanding the mayor's objection. Each item so objected to shall be separately reconsidered by the board in the same manner as bills which have been disapproved by the mayor.” [L. 1907, c. 118, s. 18; R. L. 1935, s. 3017; am. L. 1939, c. 242, pt. of s. 4.]

(12) By amending section 3018 thereof to read as follows:

“Sec. 3018. Publication after approval. No ordinance or resolution having the effect of an ordinance shall take effect until after its publication, unless otherwise provided therein. Such publication shall be made once in a daily newspaper after approval.” [L. 1907, c. 118, s. 19; am. L. 1911, c. 91, s. 2; am. L. 1927, c. 30, s. 2; R. L. 1935, s. 3018; am. L. 1939, c. 242, pt. of s. 4.]

(13) by amending section 3019 thereof to read as follows:

“Sec. 3019. Approval or veto. Every such bill and resolution which shall have passed the board and shall have been duly authenticated, shall be presented to the mayor for his approval. The mayor shall return such bill or resolution to the board within 10 days after receiving it. If he approve it he shall sign it and it shall then become or have the effect of an ordinance. If he disapprove it he shall specify his objections thereto in writing. If he does not return it with such disapproval within the time above specified, it shall take effect as if he had approved it. The objections of the mayor shall be entered at large in the journal of the board, and the board shall, after 5 and within 30 days after such bill or resolution shall have been so returned, reconsider and vote upon the same. If the same shall, upon reconsideration, be again passed by the affirmative vote of not less than five members of the board, the presiding officer shall certify that fact on the bill or resolution, and when so certified, the same shall become or have the effect of an ordinance with like effect as if it had been approved by the mayor. If the bill or resolution shall fail to receive the vote of five members of the board it shall be deemed finally lost. The vote on such reconsideration shall be taken by ayes and noes and the names of the members voting for and against the same shall be entered in the journal.” [L. 1907, c. 118, s. 20; R. L. 1935, s. 3019; am. L. 1939, c. 242, pt. of s. 4.]

(14) By amending section 3020 thereof to read as follows:

“Sec. 3020. Amendment or repeal. No ordinance shall be amended or repealed by the board of supervisors except by ordinance, and no resolution having the effect of an ordinance shall be amended or repealed by the board of supervisors except by resolution adopted, and

presented to the mayor for his approval, in the manner hereinbefore set out." [L. 1907, c. 118, s. 22; R. L. 1935, s. 3020; am. L. 1939, c. 242, pt. of s. 4.]

(15) By amending subsections 4, 6, 7, 9, 11, 17, 18, 19, 22, 25, 28, 29 and 39 of section 3021 thereof to read as follows:

"4. To enact and enforce all ordinances necessary to prevent or summarily remove nuisances, and to compel the clearing of unoccupied lots of refuse and uncultivated undergrowth, and in those connections to impose and enforce liens upon the real property involved for the cost to the city and county of completing the necessary work where the owners fail or refuse after reasonable notice to comply with such ordinances."

[5. Amended by Act 124, supra, page 122.]

"6. To prescribe and regulate the method and type of construction, the places where and the conditions under which may be erected, maintained, used or operated, foundries, bakeries, canneries and other factories, laundries, poi-shops, abattoirs, fish markets and places where noisome trades or manufactures are carried on, hotels, tenements, lodging-houses, theatres and dance halls and other places of public resort; and locations where dairies, stables and pastures and places for the keeping of animals may be maintained; provided, however, that in case of any conflict between any municipal ordinance, rule or regulation, whether adopted in pursuance of this subsection or any other power vested in the city and county, and the regulations of the territorial board of health, the latter shall control and prevail."

"7. To enact and enforce all ordinances necessary to protect health, life and property and to preserve and enforce the good government, order and security of the city and county and its inhabitants."

"9. To create a traffic safety commission, and by ordinance to delegate to it, within the terms or limits of ordinances relating to and regulating such subjects, such powers as the board may deem proper, to determine and provide for the location and proper marking of bus stops, safety stops, speed limits, parking zones, no-parking zones, safety zones, loading zones, quiet zones, safety lanes, traffic lanes, other laning or marking of highways, traffic lights and the adjustment thereof, and streets and intersections where right or left turns or U-turns may or may not be made, and other similar minor matters of traffic regulation, and to provide by ordinance that upon such determination by the commission and the filing of a copy of the same in the office of the city and county clerk and the publication thereof once in a daily newspaper of general circulation in the city and county and the placing of proper marks, signs or other suitable means of notification of the matter involved, such determination shall have the same effect as if enacted specifically by ordinance of the board; and to provide for the performance by the commission of such other duties relating to traffic as the board may prescribe."

"11. Where not within the jurisdiction of the public utilities commission, to regulate the use of public passenger vehicles, and to fix the rates to be charged for the transportation of persons or personal baggage."

"17. To provide for the purchase or acquisition by condemnation of such property as may be needed for public use. To establish, subject to the provisions of sections 3227 and 3228, improvement districts for the purpose of acquiring property for parks, playgrounds and public beaches whenever requested by the owners of at least fifty per centum of the property specially benefited, and in such case, the improvement districts shall be created in conformity with all of the provisions of chapter 92; provided, however, that this paragraph shall not be construed as in any manner limiting the power of the board of supervisors to provide for the acquisition of property for the same purpose without levying assessments."

"18. To assist financially the Hawaii tourist bureau in its enterprise of fostering the development of the Territory and the city and county through the dissemination of information descriptive of the Territory."

"19. To regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic and telegraphic service to the city and county; to construct, purchase, take on lease or otherwise acquire buildings for city and county purposes; to construct, purchase, take on lease or otherwise acquire plants, apparatus and appliances for lighting streets and public buildings, and to manage, regulate and control the same, and to acquire, regulate and control any and all appliances for the sprinkling and cleaning of the streets of the city and county and for flushing the sewers therein."

"22. To provide for the payment of compensation to the interpreters appointed by the district magistrates of the city and county to interpret testimony in cases before such magistrates, or upon inquests and examinations."

"25. Except as otherwise provided, to fix the hours of labor or service required of all employees and laborers in the service of the city and county, and their compensation."

"28. To sell at public auction, after notice by publication once a week for at least two weeks in any daily newspaper of general circulation in the city and county, any real property acquired by the city and county whenever the board deems it advisable to abandon the use of such property for the purpose for which it was acquired; provided, however, that the proposed sale of any abandoned school site shall first be approved by the superintendent of public instruction, and that the proceeds from such sale shall be used only for acquiring land or for the erection of buildings for school purposes, and that the proposed sale of any park property or water works property subject to chapter 95 shall be subject to the provisions of section 3228 or 3267 as the case may be, and provided further, that no such real property bordering on the ocean shall be sold or otherwise disposed of.

Provided, further, that all real property acquired by the city and county by purchase at any sale for default in the payment of any improvement district assessment may by the treasurer be sold at either public or private sale; the minimum price at which each lot shall be so sold shall be determined and fixed by a committee consisting of the mayor as chairman, and the treasurer, auditor and chairman of the finance committee of the board of supervisors, of the city and county;

such prices and notice that such lots are held for sale shall be published at least once in a daily newspaper of general circulation in the city and county before sale, and, in the event of a sale at public auction, the prices so determined shall constitute the upset prices for the respective lots so auctioned."

"29. Subject to sections 3227 and 3228, to exchange lands belonging to the city and county for other lands for the use of the city and county, in the manner and as may be deemed advisable by the board; provided, however, that lands used for park or school purposes may only be exchanged for other lands for the same purpose."

"39. To exercise such legislative powers as are necessary or expedient to carry out the powers, functions and duties entrusted to or imposed upon the board, provided, however, that no executive or administrative powers or functions shall be assumed or exercised by the board unless the same be expressly or by necessary implication authorized by law.

No ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute of the Territory, provided that such ordinance is not inconsistent with and does not tend to defeat the intent or object of such statute or of any other statute, and provided also that such statute does not disclose an express or implied intent that the same shall be exclusive, or uniform throughout the Territory."

(16) By amending section 3022 thereof by substituting for the words "president of the board of health of the Territory" therein the words "territorial commissioner of public health."

[Sec. 3022 also amended by Act 117, infra, page 168.]

(17) By inserting therein two new sections, to be numbered, respectively, sections 3022 A and 3022 B, reading as follows:

"**Sec. 3022 A. City planning commission; appropriations, disbursement.** The board of supervisors, upon request of the city planning commission, shall appropriate from time to time, for the use of the commission, sums aggregating not less than \$25,000.00 per annum. The board may from time to time appropriate additional moneys to be used by the commission. All moneys appropriated for the commission shall be disbursed by the city and county treasurer only upon warrants issued by the auditor signed by the chairman or acting chairman of the commission.

"**Sec. 3022 B. Police department; appropriation.** The board of supervisors, upon request of the police commission, shall appropriate from time to time, for the use of the police department, sums aggregating not less than \$675,000 per annum plus the amounts necessary to meet all of the salary increases from and after December 31, 1939, provided for by sections 3046 A to 3046 C, inclusive. The board of supervisors may from time to time, in its discretion, appropriate additional moneys to be used by the police department. Not more than 33-1/3% of all appropriations made for the police department for any year may be made from the road fund created by section 2158."

(18) By repealing sections 3025 and 3026 thereof.

(19) By amending section 3027 thereof by substituting for the word "district" in the second line thereof the words "city and county".

(20) By amending section 3036 thereof by substituting for the first sentence thereof the following:

"The elective officers of the city and county shall be a mayor, board of supervisors, sheriff, who shall be ex-officio coroner, city and county clerk, who shall be ex-officio clerk of the board of supervisors, auditor and a treasurer, all of whom shall be elected at large by the duly qualified electors of the city and county, and all of whom shall have their offices at the county seat. The appointive officers shall be a public prosecutor, city and county attorney, chief engineer of the department of public works, all of whom shall have their offices at the county seat, and such other officers as may from time to time be provided for by law."

(21) By amending section 3038 thereof to read as follows:

“Sec. 3038. Office hours. All of the city and county officers specifically mentioned in section 3036 shall keep their respective offices open for business on every business day from 8 o'clock a. m. until 4 o'clock p. m., except on Saturdays, when they may close at noon.

The receiving and paying hours of the treasurer shall be from 9 o'clock a. m. to 3 o'clock p. m. on all business days, except on Saturdays, when they shall terminate at noon." [L. 1907, c. 118, s. 27; am. L. 1923, c. 160, s. 1; am. imp. L. 1932, 1st, c. 1, s. 2; R. L. 1935, s. 3038; am. L. 1939, c. 242, pt. of s. 4.]

(22) By repealing section 3043 therecf and by amending section 3044 thereof to read as follows:

“Sec. 3044. Amount of bonds. The amount of bonds of each of the following city and county officers shall be: Members of the board of supervisors, clerk, attorney, public prosecutor and deputy sheriff, \$5,000; mayor, chief engineer, department of public works and sheriff, \$10,000; auditor and treasurer, \$25,000. The board of supervisors may require, and fix the amount of, bond of other officers, deputies and employees." [L. 1907, c. 118, s. 35; am. L. 1909, c. 53, s. 1; R. L. 1935, s. 3044; am. L. 1939, c. 242, pt. of s. 4.]

(23) By amending section 3046 C thereof to read as follows:

“Sec. 3046 C. Salaries of those in service on April 27, 1937: increases. The annual salaries of the following officers and members of the police department of the city and county of Honolulu in service on April 27, 1937, shall be as follows: captain of detectives, \$4,000.00; captains of police, \$3,100.00 each; lieutenants of detectives, \$2,800.00 each; lieutenants of police \$2,500.00 each; desk sergeants, \$2,300.00 each; sergeants of police, detectives, police reporters and radio mechanics, \$2,200.00 each; patrolmen-clerks, \$2,000.00 each. All officers and members mentioned in this section shall receive an increase in salary of \$100.00 each for each year of service for five years until the basic salary is reached, and any appointments or promotions to the above grades shall be at the rates of compensation paid the incumbent officers and members." [L. 1937, c. 78, s. 3; am. L. 1939, c. 242, pt. of s. 4.]

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(24) By amending section 3046 F thereof to read as follows:

"Sec. 3046 F. Salaries of those in service on April 27, 1937; increases. The annual salaries of the following officers in service on April 27, 1937, shall be as follows: captains, \$2,500.00 each; lieutenants, \$2,200.00 each; engineers, \$2,100.00 each; said officers to receive an annual increase of \$100.00 in salary until the basic salary referred to in section 3046 D is reached; provided, however, that any appointments or promotions to the above grades shall be at the rates paid the incumbent officers." [L. 1937, c. 78, s. 6; am. L. 1939, c. 242, pt. of s. 4.]

(25) By repealing section 3046 H thereof.

(26) By amending section 3046 I thereof to read as follows:

"Sec. 3046 I. Appropriations for salary increases in fire department. The board of supervisors is authorized and directed to make the necessary appropriations to meet the salaries fixed by sections 3046 D to 3046 F, inclusive, for the members of the fire department." [L. 1937, c. 78, s. 9; am. L. 1939, c. 242, pt. of s. 4.]

(27) By amending section 3046 J thereof to read as follows:

"Sec. 3046 J. Effective date; computation of first year's service. The salary schedules set forth herein or herein authorized shall take effect July 1, 1937, provided that where annual increases are provided for each year of service the period from July 1, 1937, to December 31, 1937, shall be considered as the first year of service." [L. 1937, c. 78, s. 10; am. L. 1939, c. 242, pt. of s. 4.]

(28) By amending section 3060 thereof to read as follows:

"Sec. 3060. Impeachment. Any city and county officer may be removed for malfeasance, misfeasance, nonfeasance or maladministration in office. The board of supervisors shall constitute a board of impeachment for the trial of any elected officer of the city and county (except members of the board of supervisors), who may be charged with malfeasance, misfeasance, nonfeasance or maladministration in office by not less than one hundred legal voters within the city and county. Such officer shall be informed of the charge made against him and shall be given an opportunity to defend himself against the same. The board of impeachment shall have power to hear and determine the charge, and if the same be sustained, to remove from office the officer so charged. Any vacancy so occurring shall be filled by appointment for the unexpired term in the manner provided in section 3061. The decision of the board of supervisors may be reviewed by the supreme court, upon a writ of certiorari; provided, that members of the board of supervisors shall be tried for any of the causes specified in this section, and in manner similar to that provided for the trial of the city and county officers, before the supreme court. Jurisdiction is conferred upon the supreme court to hear and try cases arising under the provisions of this chapter, with power, in case such charges are sustained, to remove any of such officers from office." [L. 1907, c. 118, s. 76; R. L. 1935, s. 3060; am. L. 1939, c. 242, pt of s. 4.]

(29) By amending section 3061 thereof to read as follows:

"Sec. 3061. Vacancies. Any vacancy occurring in any city and

county office for the filling of which no other provision is made shall be filled by appointment by the mayor with the approval of the board of supervisors, unless such vacancy is in the office of mayor, in which case such vacancy shall be filled by appointment by the board of supervisors for the unexpired term of such office. If the mayor be so appointed by the board of supervisors from their own number the vacancy in the board so caused shall be filled by appointment by such new mayor with the approval of the board of supervisors." [L. 1907, c. 118, s. 77; R. L. 1935, s. 3061; am. L. 1939, c. 242, pt. of s. 4.]

(30) By amending the last sentence of section 3062 thereof to read as follows:

"He may appoint and remove at pleasure a secretary at such salary as the mayor shall designate and he may appoint such other assistants as may be necessary for the proper performance of the duties of his office and for which appropriations have been made by the board of supervisors."

(31) By deleting from section 3063 thereof the fourth sentence, reading as follows:

"When any official defalcation or wilful neglect of duty or official misconduct shall come to his knowledge, he shall suspend the delinquent officer or person from office pending an official investigation."

(32) By amending section 3065 thereof to read as follows:

"Sec. 3065. Power to appoint, remove and suspend. It shall be the duty of the mayor, on or immediately following the day from which his term of office begins, to appoint, with the approval of the board of supervisors, all appointive department heads of the city and county, created or recognized by law or ordinance whose terms have expired, and all other officials whose appointments are not otherwise provided for and whose offices or positions are vacant. The term of office of those so appointed shall not, unless otherwise specifically so provided, or unless they are included in the civil service under any law then in effect, extend over the term of office of such appointive and approval power. The mayor with such approval may summarily remove from office any of such appointed officers, except the city and county attorney, public prosecutor, and controller, and shall, at the same time, file with the board of supervisors a written notice thereof and of his reasons therefor and cause to be delivered, or sent by registered mail, a copy thereof to the person so removed. When a vacancy occurs in any elective office, or in the office of any department head or other official as aforesaid, and provision is not otherwise made by law for filling the same, the mayor, with such approval, shall appoint a suitable person to fill such vacancy, who shall hold office for the unexpired term unless otherwise removed.

Except in the department of the board of water supply and the police and fire departments, the mayor shall have authority to suspend without pay for a period not exceeding sixty days any officer or employee for incompetence, neglect of duty, drunkenness, failure to obey orders given him by proper authority, insubordination, or other misconduct. He shall, at the same time, file with the board of supervisors a written notice thereof and of his reasons therefor and cause to be delivered, or sent by registered mail, a copy thereof to the person so suspended. For the purpose of conducting or assisting in any investi-

gation preliminary to or after any such suspension, the mayor may call upon either the city and county attorney or the public prosecutor.

Upon conclusion of his investigation, and within sixty days after any such suspension, the mayor shall file with the board of supervisors a written report and finding thereon, delivering or forwarding by registered mail a copy thereof to the person suspended. If the person suspended be an officer removable by the mayor, the mayor shall in such report either remove or reinstate him. If the person be not removable by the mayor, said report shall either reinstate such person, or recommend his removal by the proper authority, which recommendation shall be mandatory upon such authority. In all investigations by the mayor or by the city and county attorney or public prosecutor for the mayor, it shall not be necessary to give to the person suspended or removed any notice other than that in this section provided for, or any opportunity to be heard, save such as, in the sole discretion of the mayor, city and county attorney or public prosecutor, as the case may be, shall be deemed proper.

No person so suspended shall be entitled to any pay during the period of suspension unless he be reinstated, in which case it shall be discretionary with the board of supervisors or other appropriating authority (subject to any civil service provisions that may be in effect at the time) to order the payment of all or any part of such pay." [L. 1907, c. 118, s. 81; am. L. 1911, c. 168, s. 1; am. L. 1913, c. 65, s. 1; am. L. 1919, c. 62, s. 8; am. L. 1925, c. 57, s. 1; R. L. 1935, s. 3065; am. L. 1939, c. 242, pt. of s. 4.]

(33) By substituting for the word "extra" in the third line of section 3066 thereof the word "special".

(33a) By adding thereto the following subtitle and new sections:

"CONTROLLER

"Sec. 3067.01. **Appointment, removal, salary.** There shall be a city and county controller who shall be appointed for a term of four years by the mayor, subject to confirmation and approval of four members of the board of supervisors. Such appointment shall be made solely on the basis of qualifications by training and experience for the office to be filled. An incumbent in the office of controller upon the expiration of his term may be reappointed in the same manner as for original appointment.

The controller shall receive an annual salary of not less than seven thousand five hundred dollars, provided, however, that such amount shall be subject to increase in accordance with any general classification and salary standardization plan that may be enacted.

Removal of the controller may be made only for cause by the mayor, subject to the approval of five members of the board of supervisors.

"Sec. 3067.02. **General powers and duties.** The controller shall exercise general supervision over all budgeting, financial reporting, purchasing, and accounting, and may prescribe, subject to statutory

provisions elsewhere set forth, methods and forms to be used in such activities. He may at any time examine any records relating to the finances of the city and county, and shall report his recommendations to the proper officer, board or commission.

The controller also shall have power and it shall be his duty to investigate the administration of the various departments and offices of the city and county for the purpose of recommending to the mayor and the board of supervisors concerning the duties of the various positions in said departments and offices, the methods of said departments and offices, the standards of efficiency therein, and such changes as in his judgment will promote economy and efficiency in the conduct of the city and county government. He shall furnish the mayor or board of supervisors such aid, information, and his recommendations as shall be requested of him in writing by the mayor or board.

"Sec. 3067.03. Controller's deputies and clerks; annual appropriation. The controller may appoint such deputies, clerks, stenographers and other assistants, as may be necessary for the proper performance of the duties of his office and for whose employment authorization has been granted and appropriations have been made by the board of supervisors; provided, however, that the board of supervisors shall annually appropriate not less than \$40,000 for the support of the controller's office.

"Sec. 3067.04. Custody and examination of official bonds. The controller shall be the custodian of all official bonds, excepting the bond of the controller, which shall be in the custody of the mayor. The controller must at least once in every six months examine all official bonds and investigate the sufficiency and solvency of the sureties thereon, and forthwith report in writing the facts to the mayor. Upon receipt of such report, the mayor shall take such action as shall be necessary to protect the city and county, and may require new bonds and may suspend any officer or employee until a sufficient bond is filed and approved. The mayor shall make similar periodic examination of the controller's bond.

"Sec. 3067.05. Controller's reports. The controller annually shall make a complete financial report which together with his records and accounts shall be audited by a private accounting firm employed by the board of supervisors. Such annual report together with the audit report thereon shall be printed or duplicated with a reasonable number of copies for public distribution. The controller shall also make a quarterly report not later than the 25th day of the month succeeding the last preceding quarter, showing a summary statement of revenues and expenditures for the preceding quarter and for that portion of the fiscal year ending on the last day of such preceding quarter. The controller shall at the same time prepare statements showing at the end of each quarter the cash position of the city and county and the unencumbered balance in each fund and also the estimated cash position and transmit to all department heads concerned, reports showing the allowances, expenditures, encumbrances and unencumbered balances of each revenue and expenditure appropriation. A copy of each of the reports of the controller and such special fiscal reports as may be requested shall be transmitted to the mayor and the board of supervisors.

"Sec. 3067.06. Budget estimates. The budget estimate for every department and office of the city and county, whether under an elective or an appointive officer, or a board or commission, shall be filed by the executive of such department with, and shall be acted upon by, such board or commission. All budget estimates shall be compiled in such detail as shall be required, on uniform blanks furnished, by the controller. Each such elective and appointive officer, board or commission, shall, not later than the 15th day of November of each year, file with the controller for check as to form and completeness two copies of the budget estimate as approved.

The mayor shall obtain in ample time to pass thereon budget estimates from the heads of departments or offices subject to his executive control, and, after adjusting or revising the same, not later than the 15th day of November he shall transmit such budget estimates to the controller.

The controller shall check such estimates and shall, upon his request, be furnished with any additional data or information. Not later than the 15th day of December of each year he shall consolidate such budget estimates and transmit the same to the mayor, together with a summary and recapitulation thereof segregated by separate departments or offices and units thereof, or by purposes for non-departmental expenditures, arranged in such a manner as to show the amount of proposed expenditures and estimated revenues in comparison with the current and previous fiscal year's expenditures and revenues. He shall submit at the same time (1) statements showing revenues and other receipts, including the estimated unencumbered surplus in any item or fund at the beginning of the ensuing fiscal year, segregated according to specific or general purposes to which such revenues or receipts are legally applicable, for the last complete fiscal year and for the first nine months of the current fiscal year, together with estimates of such revenues and receipts for the ensuing fiscal year; (2) statements of the amounts required for interest on, and sinking fund or redemption of, each outstanding bond issue, and for judgments and other fixed charges, together with estimates of interest required on bonds proposed to be sold during the ensuing fiscal year, and statements of the authorized debt, and judgments outstanding at the time the budget estimates are submitted.

The mayor shall hold such public hearings on these budget estimates as he may deem necessary and may increase, decrease or reject any item contained in the estimates, excepting that he shall not increase any amount nor add any new item for personal services, materials, supplies or contractual services, but may add to the requested appropriation for any public improvement or capital expenditure; provided, however, that the budget estimates of expenditures for any utility under a board having control of its own funds, within the estimated revenues of such utility, shall not be increased or decreased by the mayor or the board of supervisors, and provided further that no budget request of any department or office for which a minimum appropriation is required by statute shall be reduced below such minimum amount by the mayor or the board of supervisors.

"Sec. 3067.07. Form of budget estimates. The classification of proposed expenditures included in budget estimates shall be uniform for all departments or offices, and shall be as prescribed by the controller.

The estimates shall include or be accompanied by such information as the mayor or the controller may deem desirable.

"Sec. 3067.08. Personal service estimates. All increases in salaries or wages of officers and employees shall be determined at the time of the preparation of the annual budget estimates and the adoption of the annual budget and appropriation ordinances, and no such increase shall be effective prior to the fiscal year for which the budget is adopted. Salary and wage rates for classes of employments subject to salary standardization shall be fixed in the manner provided by statute. Salary and wage rates for classes of employment not subject to salary standardization, exclusive of compensations fixed by statute, shall be recommended by the officer, board or commission having appointive power for such employments, and fixed by the budget and the annual salary ordinance. Pending the adoption of salary standards, the salary and wage rates for positions subject to such standardization shall be recommended by the officer, board or commission having appointive power for such employments and fixed by the budget and annual salary ordinance.

"Sec. 3067.09. Salary ordinance. The number and rates of compensation for all positions, which term as used in this subtitle includes offices, shall be established and enumerated in a salary ordinance, which shall be amended annually, or from time to time as necessary, to include all positions in city and county departments and offices under the legislative control of the board of supervisors which are continued or created by the board of supervisors in adopting each annual budget and each annual or supplementary appropriation ordinance. Any amendment of the salary ordinance necessary to conform to the budget or to any annual or supplementary appropriation ordinance shall be passed at the same time, as nearly as practicable, as such annual budget, or annual or supplementary appropriation ordinance, is passed. Such ordinance shall be subdivided for each department or office and each organization subdivision thereof. The number of positions enumerated therein shall be segregated by classes and the positions in any department or office under any such class shall not be listed individually or subdivided, except where necessary to show varying rates of pay for employments included in any such class. Any increase in the number of positions allowed for any department or office, and seniority or other compensation increases authorized, may be covered by amendment of the appropriate section of the salary ordinance, provided that any such amendment shall include the entire section of such ordinance relating to the department or office in which the increase in number of positions or compensations shall occur. The said ordinance and applicable statutes shall constitute the legal basis for check as to the legality of the creation of or employment in any position in the city and county service and the rate of compensation fixed therefor.

"Sec. 3067.10. Adoption of budget and appropriation ordinance. Annually not later than the 20th day of January, the mayor shall transmit to the board of supervisors the consolidated budget estimates for all departments and offices of, and the proposed budget for, the city and county for such fiscal year, including a detailed estimate of all revenues and an estimate of the amount required to meet bond redemption and interest and other fixed charges, and the revenues applicable thereto. He shall, by message accompanying such proposed budget, comment upon the financial program incorporated therein,

the important changes as compared with the previous budget, and bond issues and additional revenue measures, if any, as recommended by him.

The proposed budget shall be accompanied by a draft of the annual appropriation ordinance for such year, which shall be prepared by the controller, and shall be in such form as to furnish an adequate basis for fiscal and accounting control by the controller over each revenue and expenditure appropriation item.

Upon submission, the appropriation ordinance shall be deemed to have been regularly introduced, and together with the proposed budget, shall before final adoption be published in the manner provided by section 3016 of the Revised Laws of Hawaii 1935 for ordinances requiring publication. The board of supervisors shall cause a reasonable number of copies of the mayor's proposed budget including message and comparative expenditure and revenue data to be printed or duplicated for official use and public distribution.

The board of supervisors shall fix the date or dates, not less than five days after publication, for consideration of any public hearings on the proposed appropriation ordinance and proposed budget.

The board of supervisors may decrease or reject any item contained in the proposed budget, but shall not increase any amount or add any new item for personal services or materials, supplies, or contractual services, for any department, unless requested in writing so to do by the mayor on the recommendation of the officer, board or commission in charge of such department. The board of supervisors may increase or insert appropriations for capital expenditures and public improvements, providing estimated revenues and receipts, as determined by the controller, allow.

After public hearing, and not later than the 10th day of February, the board of supervisors shall adopt the proposed budget as submitted or as amended and shall pass the necessary appropriation ordinance. If the appropriation ordinance as submitted by the mayor is amended by the board of supervisors, it shall be readvertised prior to final reading or passage, in the same manner required for the original appropriation ordinance.

Any item in such appropriation ordinance except for bond redemption and interest or other fixed charges, may be vetoed in whole or in part by the mayor within ten days of receipt by him from the clerk of the board of supervisors of the ordinance as passed by said board, and said board shall act on such veto not later than the 25th day of February.

The several items of expenditure appropriated in each annual appropriation ordinance, being based on estimated receipts, income or revenues which may not be fully realized, it shall be incumbent upon the controller to establish a schedule of allotments, monthly or quarterly, as he may determine, under which the sums appropriated for the several departments shall be expended. The controller shall revise such revenue estimates monthly. If such revised estimates indicate a shortage the controller shall hold in reserve an equivalent amount of the corresponding expenditure appropriations set forth in any said annual appropriation ordinance until the collection of the amounts originally estimated is assured. In authorizing the issuance of war-

rants or in certifying contracts or purchase orders or other encumbrances, the controller shall consider only the allotted portions of appropriation items to be available for encumbrance or expenditure and shall not approve the incurring of liability under any allotment in excess of the amount of such allotment. In case of emergency or unusual circumstance which could not be anticipated at the time of apportionment, an additional allotment for a period may be made by the mayor on the recommendation of the department head, subject to the approval of the controller. After the allotment schedule has been established or fixed, as heretofore provided, it shall be unlawful for any department or officer to expend or cause to be expended a sum greater than the amount set forth for the particular activity in the said allotment schedule so established, unless an additional allotment is made as herein provided.

Subject to the restrictions hereinbefore in this section included, the several amounts of estimated revenue and proposed expenditures contained in the annual appropriation ordinance as finally adopted shall be and become appropriated for the particular fiscal year to and for the several departments, offices, boards or commissions, and for the purposes specified, and each department for which an expenditure appropriation has been made shall be authorized to use the money so appropriated for the purposes specified and within the limits of the appropriation. The appropriation ordinance shall constitute the authority for the controller to set up the required revenue and expenditure accounts. Appropriation items for bond redemption and interest, fixed charges and other purposes not appropriated to a specific department shall be subject to the administration of and expenditure by the mayor for the respective purposes for which such appropriations are made, provided that nothing contained in this section shall supersede the provisions of section 1922 regarding authority of the territorial treasurer to withhold certain county moneys for certain purposes specified therein.

Pending the adoption of the annual appropriation ordinance, the controller shall have authority to allow expenditures under allotments made by him and based upon the prior year's appropriation ordinance.

"Sec. 3067.11. Revolving funds. Revolving funds to facilitate the operations of any department or unit thereof may be created by ordinance provided that such creation is recommended in writing by the controller. The controller may prescribe amounts and procedures for the expenditure of, and accounting for, petty cash by departments.

"Sec. 3067.12. Appropriation accounts. Accounts shall be kept by the controller showing the amount of each class or item of revenue as estimated and appropriated in the annual appropriation ordinance, and the amounts collected. Accounts shall also be kept by the controller of each expense appropriation item authorized by the board of supervisors. Every warrant on the treasury shall state specifically by title and number the appropriation item against which such warrant is drawn. Each such revenue and expense account shall show in detail the amount of the appropriation or appropriations made therefor, the amount drawn thereon, the amount of encumbrance for purchase orders, contracts or other obligations theretofore certified by the controller as against it, and the unencumbered balance to the credit thereof.

Any accounting system instituted by the controller in compliance with the provisions of this section shall not be subject to the provisions of section 564. However, the controller shall provide statistical reports for the use of the territorial auditor in such form as the latter shall request.

"Sec. 3067.13. Transfers. Upon written recommendation of the officer, board or commission for the use of which funds have been appropriated, and the approval of the mayor, the board of supervisors may transfer an unencumbered balance, or part thereof, of an appropriation made for the use of one department, to another. On request of the administrative head of any department and approval of the mayor, or board or commission in the case of departments given control of their own funds, and on the authorization of the controller, funds appropriated for a specific purpose of such department which become surplus may be transferred and used for another specific purpose within the particular department. The controller shall prescribe the method to be used in making payments for interdepartmental services.

"Sec. 3067.14. Fund balances and reserve. All unappropriated surplus and all unencumbered balances of any appropriations in any fund at the end of any fiscal year shall be available for appropriation for the succeeding fiscal year; provided, however, that the controller shall transfer all such surplus and unencumbered appropriations of the general fund to the general emergency reserve fund, until such time as the cash balance in such reserve fund shall amount to ten percent of the annual general fund appropriations for the preceding year; and provided further that no appropriation from such reserve fund shall be made except upon recommendation of the mayor and the approval of five members of the board of supervisors. The controller may authorize loans from the general emergency reserve fund to other funds temporarily requiring cash.

"Sec. 3067.15. Purchasing agent. The purchasing agent shall be a subordinate of the controller. He shall be charged with the purchase of all materials, supplies and equipment for the city and county. No contract for services of firms or persons other than regularly appointed employees shall be made without the approval as to form and availability and designation of funds by the controller.

All purchases of materials or supplies involving an expenditure of one thousand dollars or less, required for any board, officer or employee, hereafter in this section referred to as 'department', of the city and county shall be made from the lowest responsible bidder, by the purchasing agent, upon requisition delivered to him signed by the authorized representative of the department for which the purchase is to be made.

All purchases involving an expenditure in excess of one thousand dollars shall be made from the lowest responsible bidder by the purchasing agent upon such said requisition, provided that in this case the specifications on which bids were asked must first be approved by the purchasing agent and also by the authorized representative of the department for which the purchase is being made, or in lieu of the latter, by the controller; and provided further, that the acceptance of any bid in such case shall be approved by the purchasing agent and also by the authorized representative of the department for which the purchase is being made, or in lieu of the latter, by the controller.

Whenever practicable, any said specification or acceptance of bids shall have affixed thereto signatures showing the approval or disapproval, as the case may be, of the authorized representative of the department for which the purchase is being made, and of the controller, but either of said signatures, together with the signature of the purchasing agent, shall be sufficient to approve any said specification or acceptance of bids.

In any purchase exceeding two thousand dollars made for the city and county engineer, the engineer shall have entire authority to prepare the necessary specifications without the approval of the purchasing agent, and no contract for such purchase shall be awarded or made by the purchasing agent without the approval of the said engineer.

The controller shall establish and make available to all departments, rules providing for (1) emergency purchases which might be required and could not be made under the procedure set forth in this section without loss to the city and county, and (2) blanket purchase orders not exceeding two hundred dollars each for any calendar month, which shall be authority to make purchases thereunder to any department specified in any such blanket order, such department having budget authority to incur such expense, when the business of said department would suffer loss and injury from the lack of such blanket purchase order.

The provisions of this section shall not be applicable to the board of water supply.

"Sec. 3067.16. Expenditures and payment of claims. No money shall be drawn from the treasury of the city and county, nor shall any obligation for the expenditure of any money be incurred except in pursuance of appropriations or transfers made in accordance with law. No salary or wage shall be paid in advance. All warrants shall be drawn by the auditor, in payment of claims, prepared and signed by the responsible official, for services, supplies and other obligations against the city and county, supported by proper invoices, bills and other necessary data. The controller shall preaudit such claims. If he finds the same to be correct and proper in all particulars, and clearly within the purposes for which the appropriation item to which it is charged was made, and that there is an adequate balance in such appropriation item to meet the payment, he shall approve such claim and authorize the auditor to draw the warrant therefor. If all or any portion of the claim is not correct, or if all proceedings required incidental to such payment have not been followed, the controller may approve such part of such claim as he shall find correct and authorize the auditor to draw the warrant therefor, or he may return the claim to the department concerned with his disapproval.

Prior to his authorizing the drawing of any warrant therefor, the controller may, in addition to any other inspection required by any other official, make such investigation and inspection as he deems necessary as to the quality, quantity and condition of services, material, supplies or equipment received by any officer or department for which payment is to be made by such warrant. If, in his opinion, any claim is not legal or otherwise proper, he shall withhold approval of the same and transmit the same to the mayor for action thereon by the mayor and the board of supervisors, and the controller shall be guided in the subsequent handling of such claim by their action thereon;

provided that if such claim is on funds under the control of the board of water supply, such claim shall be referred to said board, and the controller shall be guided in the subsequent handling of such claim by said board's action thereon.

No obligation involving the expenditure of money shall be incurred or authorized by any officer, employee, board or commission of the city and county unless the controller first certify that there is a valid appropriation from which the expenditure may be made, and that sufficient unencumbered funds are available in the treasury to the credit of such appropriation to pay the amount of such expenditure when it becomes due and payable. Wherever the word 'auditor' is used in section 82 with reference to the city and county of Honolulu, it shall be construed to mean the controller of such city and county."

(34) By repealing sections 3071 to 3077 thereof, both inclusive, and by amending sections 3068, 3069 and 3070 thereof to read, respectively, as follows:

"Sec. 3068. **Warrants, audits.** The auditor shall draw all warrants and maintain a record of same; but no warrant on the treasury shall be drawn by him until after preaudit and written approval of the claim, which it is intended to pay, by the controller. The auditor shall between the 1st and 10th day of each month examine the books of the treasurer and, from time to time as he deems necessary, audit the accounts of all boards, officers and employees of the city and county charged in any manner with the custody, collection or disbursement of funds, provided that he shall make a monthly audit of each departmental revolving fund. All such audit reports shall be immediately placed in the hands of the controller for necessary action thereon. [L. 1907, c. 118, s. 84; R. L. 1935, s. 3068; am. L. 1939, c. 242, pt. of s. 4.]

"Sec. 3069. **Count of money in treasury.** The auditor and the controller, or their designated assistants, shall jointly, at least once in each three months, and at such other times as they may deem proper, count the money in the treasury and make and verify a report showing (1) the amount of money that ought to be in the treasury, and (2) the amount and kind of money actually therein. A signed copy of such report shall be filed with the mayor, the board of supervisors, and the treasurer, and another signed copy shall be posted in the auditor's office for at least one month from the date of such report. [L. 1907, c. 118, s. 85; R. L. 1935, s. 3069; am. L. 1939, c. 242, pt. of s. 4.]

"Sec. 3070. **Auditor's deputies and clerks.** The auditor may appoint such deputies, clerks, stenographers and other assistants, including private accounting firms, as may be necessary for the proper performance of the duties of his office and for whose employment authorization has been granted and appropriations have been made by the board of supervisors." [L. 1907, c. 118, s. 86; R. L. 1935, s. 3070; am. L. 1939, c. 242, pt. of s. 4.]

(35) By deleting from section 3078 thereof paragraphs numbered 2 and 7 of said section; and by substituting for the word "auditor" in the paragraph numbered 5 of said section the word "controller".

(36) By repealing sections 3079 and 3080 thereof.

(37) By amending the first sentence of section 3081 thereof to read as follows:

"When a warrant or warrant note is presented to the treasurer for payment, if there is money in the treasury for that purpose, he shall pay the same and stamp on the face thereof 'paid by the treasurer of the City and County of Honolulu' and the date of payment"; by substituting for the phrase "before the close of the biennial period next after the biennial period" in the 5th and 6th lines of said section, the phrase "within two years next after the year"; and by substituting for the word "auditor" in the 4th from the last line of said section, the word "controller".

(37 a) By substituting for the word "auditor" wherever the same appears, and for the word "mayor" in the first line of the second paragraph, in **section 3082** thereof, as amended by Act 57, series A-18, Session Laws of 1935, the word "controller".

(38) By amending the last sentence of **section 3087** thereof to read as follows:

"He shall also make a full settlement of all accounts with the auditor annually."

(39) By amending **section 3092** thereof to read as follows:

"Sec. 3092. Treasurer's deputies and clerks. The treasurer may appoint such deputies, clerks, stenographers and other assistants as may be necessary for the proper performance of the duties of his office and for which appropriations have been made by the board of supervisors." [L. 1907, c. 118, s. 109; am. L. 1919, c. 62, s. 10; R. L. 1935, s. 3092; am. L. 1939, c. 242, pt. of s. 4.]

(40) By deleting from the first line of subdivision 1 of **section 3093** thereof the words "and for".

(41) By deleting from said **section 3093** the fifth subdivision thereof.

(42) By repealing **section 3094** thereof.

(43) By amending **section 3096** thereof to read as follows:

"Sec. 3096. [Attorney's deputies, clerks, etc.] The city and county attorney may appoint such deputies, and he may appoint such other legal assistants, clerks, stenographers, interpreters and other assistants, as may be necessary for the proper performance of the duties of his office and for which appropriations have been made by the board of supervisors." [L. 1907, c. 118, s. 117; am. L. 1919, c. 62, s. 11; am. imp. L. 1932, 1st, c. 13, pt. of s. 1; R. L. 1935, s. 3096; am. L. 1939, c. 242, pt. of s. 4.]

(44) By amending the second subdivision of **section 3098** thereof to read as follows:

"2. Appear in every criminal case where there shall be a change of venue from the courts in the city and county and prosecute the same in any county to which the same shall be changed or removed. The expense of such proceedings shall be paid by the city and county."

(45) By deleting from said **section 3098** the fifth subdivision thereof.

(46) By amending the first paragraph of **section 3099** thereof to read as follows:

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"The public prosecutor of the city and county may appoint such deputies, and he may appoint such other legal assistants, clerks, stenographers, investigators, interpreters and other assistants, as may be necessary for the proper performance of the duties of his office and for which appropriations have been made by the board of supervisors."

(47) By deleting from said section 3099 the last paragraph thereof.

(48) By substituting for the words "his assistants" in the second line of section 3100 thereof the words "anyone connected with his office".

(49) By inserting, after the word "shall" in the first line of section 3101 thereof, a "comma" and the words "within thirty days after the close of each calendar year".

(50) By amending subdivisions 2(e), 2 (h), 3 and 4 of section 3103 thereof to read as follows:

"(e) File and preserve all reports required by law to be made to the board;

(h) Administer oaths and affirmations, when requested to do so, without charge in all matters pertaining to the affairs of his office, and perform such services as may be prescribed by the board;

3. Adopt, subject to the approval of the board, a seal of office, upon which shall always appear the name of the city and county, which shall be the seal of the city and county, and shall be used to authenticate all official papers and instruments requiring execution or certification by the clerk, in the exercise of his office. A copy of the impress thereof, certified to be genuine, and also a copy of such seal of the city and county when altered or changed by the board shall be filed in the office of the secretary of the Territory;

4. Have the custody of the seal, and, subject to the provisions of section 1583, of all leases, grants and other documents, records and papers of the city and county. His signature shall be necessary to all leases, grants and conveyances of the city and county."

(51) By amending section 3104 thereof to read as follows:

"**Sec. 3104. Clerk's deputies and clerks.** The clerk may appoint such deputies, clerks, stenographers and other assistants as may be necessary for the proper performance of the duties of his office, and for which appropriations have been made by the board of supervisors." [L. 1907, c. 118, s. 121; am. L. 1909, c. 118, s. 1; am. L. 1911, c. 91, s. 4; am. L. 1915, c. 28, s. 1; am. L. 1919, c. 62, s. 12; R. L. 1935, s. 3104; am. L. 1939, c. 242, pt. of s. 4.]

(52) By amending section 3104 A thereof by inserting, after the word "parks" in the next to the last line thereof the words "and recreation grounds".

(53) By amending the second sentence of section 3104 B thereof to read as follows:

"He shall be appointed and be removable in the manner provided in section 3065 and shall receive a salary of not less than \$7,200 per annum, except as may be otherwise determined pursuant to any applicable classification and compensation schedules that may be in effect from time to time under any other law."

(54) By amending section 3104 C thereof to read as follows:

"The chief engineer may appoint or engage such deputies, assistants and employees as may be necessary for the proper performance of the duties of his department and for which appropriations have been made by the board of supervisors. Such deputies, assistants and employees shall discharge any of the duties pertaining to the department as the chief engineer may assign to them.

The chief engineer, with the approval of the mayor, may also appoint, in writing, any deputy, assistant or employee in his department, or, in case no competent person is so available, any competent person at such compensation as the board may authorize, to serve as acting chief engineer during his temporary illness, incapacity or absence from the city and county for whose acts the chief engineer shall be responsible, and such appointee shall, during such temporary illness, incapacity or absence of the chief engineer, have and exercise all the powers, duties and functions of the chief engineer, whether prescribed by statute or ordinance, subject to the direction and control of the engineer; provided, however, that any deputy, assistant or employee in the department so appointed as acting chief engineer shall serve as such without additional compensation." [L. 1937, c. 156, s. 3; am. L. 1939, c. 242, pt. of s. 4.]

[Sec. 3105, relating to sheriff's duties, amended by Act 178, infra, page 169.]

(55) By amending section 3110 thereof to read as follows:

"Sec. 3110. Deputy sheriffs and other employees. The sheriff may appoint such deputies and employees as may be necessary for the proper performance of the duties of his office and for which appropriations have been made by the board of supervisors. He may also appoint and remove at pleasure additional deputies without pay, not exceeding a total of fifteen including paid deputies." [L. 1907, c. 118, s. 128; am. L. 1909, c. 76, s. 1; am. L. 1919, c. 62, s. 13; R. L. 1935, s. 3110; am. L. 1935, c. 176, s. 1; am. L. 1939, c. 242, pt. of s. 4.]

[Sec. 3114 A, 3114 B, providing for county dentist. Act 194, infra, page 169.]

(56) By amending section 3115 thereof to read as follows:

"Sec. 3115. Removal of deputies and others. Subject to any civil service provisions that may be in effect at the time, if applicable, any city and county officer may remove from office any deputy, clerk, stenographer or other assistant appointed by him." [L. 1907, c. 118, s. 131; R. L. 1935, s. 3115; am. L. 1939, c. 242, pt. of s. 4.]

(57) By amending section 3117 thereof to read as follows:

"Sec. 3117. Acting members of boards and commissions. The mayor may appoint an acting member of any city and county board or commission to serve during the temporary absence from the Territory or the illness of any regular member thereof. Such acting member shall have the same powers and duties as the regular member." [L. 1907, c. 118, s. 133; R. L. 1935, s. 3117; am. L. 1939, c. 242, pt. of s. 4.]

(58) By repealing section 3119 thereof.

(59) By amending section 3120 thereof to read as follows:

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"Sec. 3120. Employment without authorization prohibited; salaries fixed by ordinance. No officer, board or department shall appoint or employ any person in any position not previously authorized by ordinance or temporarily authorized by resolution for a period of not to exceed sixty days pending amendment of the salary ordinance. The salary of all positions shall be as fixed by ordinance." [L. 1907, c. 118, s. 145; am. L. 1919, c. 62, s. 16; R. L. 1935, s. 3120; am. L. 1939, c. 242, pt. of s. 4.]

(60) By amending section 3121 thereof to read as follows:

"Sec. 3121. Removal of officers and appointive members of boards and commissions. Any officer of the city and county who shall, while in office, accept any donation or gratuity in money, or other valuable thing, either directly or indirectly, from any subordinate or employee, or from any candidate or applicant for any position as employee or subordinate under him, shall be removed from office in the manner provided by law, and be forever barred and disqualified from holding any position in the service of the city and county.

Any member of any city and county board or commission appointed by the mayor who shall become a candidate for any elective office ipso facto vacates his office as such member. No such member shall, aside from exercising the right to vote, support, advocate or aid in the election or defeat of any candidate for public office, and upon satisfactory proof of such prohibited activity being made to the mayor, he shall summarily remove such offending member." [L. 1907, c. 118, s. 136; R. L. 1935, s. 3121; am. L. 1939, c. 242, pt. of s. 4.]

(61) By amending section 3123 thereof to read as follows:

"Sec. 3123. Liability for unauthorized demands. Every officer who shall approve, allow or pay any demand on the treasury not authorized by law shall be liable to the city and county individually and on his official bond for the amount of the demands so illegally approved, allowed or paid." [L. 1907, c. 118, s. 138; R. L. 1935, s. 3123; am. L. 1939, c. 242, pt. of s. 4.]

[Sec. 3124. Records open to inspection; copies. Amended by Act 12, infra, page 170.]

(62) By amending section 3125 thereof to read as follows:

"Sec. 3125. Appointments in writing. All appointments of officers, deputies and clerks must be made in writing and in duplicate, authenticated by the person, board or officer making the same. One of such duplicates must be filed with the clerk and the other with the controller. When any such appointment shall be revoked the revoking authority shall give written notice thereof to the clerk, controller, and to any other authority that may then be charged by law with the administration of any civil service system for the city and county government if the position is within such civil service." [L. 1907, c. 118, s. 141; R. L. 1935, s. 3125; am. L. 1939, c. 242, pt. of s. 4.]

(63) By amending section 3126 thereof to read as follows:

"Sec. 3126. Salaries full compensation; moneys payable into treasury. The salaries provided by law for municipal officers or employees shall be in full compensation for all services rendered, and every such officer or employee shall pay all moneys belonging to the city and

county coming into his hands as such officer or employee, no matter from what source derived or received, into the treasury of the city and county within thirty days after receipt of the same." [L. 1907, c. 118, s. 144; R. L. 1935, s. 3126; am. L. 1939, c. 242, pt. of s. 4.]

(64) By adding thereto a new section to be numbered section 3127, reading as follows:

"Sec. 3127. Liability of city and county officers on bond. If any city and county officer should refuse or neglect to account for and pay over all moneys received by him by virtue of his office, he shall be liable for such refusal or neglect upon his official bond, and the treasurer shall bring an action against him for the recovery thereof, in the name of the city and county, and recover in such action, in addition to the amount so received, fifty per centum thereon by way of damages. No order of the board of supervisors shall be necessary to bring such action. The treasurer's reasonable expenses, including an attorney's fee if necessarily incurred, shall be a city and county charge."

(65) By adding thereto a new section, to be numbered section 3128, reading as follows:

"Sec. 3128. Private practice by city and county attorney and deputies, public prosecutor and assistants, prohibited. The city and county attorney and his deputies, and the public prosecutor and his assistants, shall devote their entire time and attention to the duties of their respective offices. They shall not engage in the private practice of law, nor accept any fees or emoluments other than their official salaries for any legal services, including masterships, performed by them."

(66) By adding thereto a new section, to be numbered section 3128.1, reading as follows:

"Sec. 3128.1. Vacations. The provisions of sections 103, 104 and 108 relative to vacations for city and county employees shall be mandatory, and no approval of any such vacation by the board of supervisors shall be or become a condition precedent to the taking thereof or to the right of any employee to receive pay for any vacation period earned and taken. It shall be the duty of the controller to assist employees in securing the vacations to which they are entitled, and to report to the mayor all instances of apparent unjust deprivation of vacations.

Any employee deeming himself aggrieved by the denial of vacation shall have the right of appeal to the mayor, whose duty it shall be to see that the provisions hereof are carried out. The heads of departments, and the boards and commissions shall include in their respective departmental estimates for the budget requests for funds adequate to provide for such substitutes as are necessary to replace employees to be on vacation during the succeeding annual period."

(67) By adding thereto a new section, to be numbered section 3128.2, reading as follows:

"Sec. 3128.2. Sick leave. In extending sick leave for any city and county employee, pursuant to the provisions of section 105, the mayor may, for the first four weeks extension thereof, provide that such employee shall during said time draw full pay, or such percentage thereof as the mayor deems proper, but no employee shall be entitled to or draw any pay during any extension of sick leave beyond the first

eight week period thereof, unless the same be provided for under chapter 245."

(68) By adding thereto a new section, to be numbered section 3128.3, reading as follows:

"Sec. 3128.3. Assignments of salary; endorsement of notes; loans. No assignment by any city and county employee of his salary or any portion thereof shall be valid unless approved by the head of his department, board or commission and accepted by the auditor.

No city and county officer or employee shall lend any money to any other city and county officer or employee where interest is charged, directly or indirectly, on such loan, nor shall any city and county officer or employee, without the prior written consent of the head of the department, board or commission in which he is employed, act as endorser or co-maker on any note of any other city and county officer or employee. Violation of either of the provisions of this paragraph shall be ground for removal."

(69) By adding thereto the following subtitle and sections:

"CITY PLANNING COMMISSION

"Sec. 3133. Commission; appointment; term of office. There is hereby established a city planning commission for the city and county of Honolulu consisting of nine members who shall be appointed by the mayor with the approval of the board of supervisors, who shall hold office for five years or until their successors are appointed and qualified; provided, however, that of the first members appointed hereunder, three shall be appointed for a term expiring January 1, 1942, three members for a term expiring January 1, 1943, and three members for a term expiring January 1, 1944. Any vacancy in the commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term. There shall be no vocational or professional requirements for members of this commission, except that one member shall be a practicing architect, one a practicing civil engineer, and one a practicing realtor.

"Sec. 3133.1. Organization; employees; expenses. The mayor shall designate one of the members appointed by him as chairman of the commission. The commission shall elect a vice-chairman who shall act as chairman and perform all of the duties of the chairman in the absence of the chairman from any meeting. The commission shall appoint an executive secretary and such experts, assistants and clerks as may be necessary to perform the duties of the commission, and for which appropriations have been made by the board of supervisors. Officers and employees of the several departments may be temporarily detailed by the mayor to assist the commission as required, and in such event shall serve without additional compensation, but no such officer or employee shall be deprived of his regular compensation because of such service with the commission. The commission may incur such other expenses as may be necessary and proper, and for which appropriations have been made by the board of supervisors. Disbursements therefor shall be made by warrants issued on vouchers signed by the chairman or acting chairman.

"Sec. 3133.2. Quorum; meetings; rules; office; publication of notices. Five members of the commission shall constitute a quorum for the transaction of business and for the exercise of the powers and authority

conferred upon the commission. The commission shall hold at least one meeting in each month, and shall adopt rules for the transaction of business, and the executive secretary shall keep a record of its resolutions, findings and determinations, which record shall be a public record. The office of the commission shall be in the Honolulu municipal building. The term 'published notice', wherever used in this subtitle means notice by publication in a daily newspaper of general circulation in the city and county for three consecutive days (either including or excluding Sundays), the first of such publications to be at least ten days prior to the date of the hearing so noticed.

"Sec. 3133.3. Master plan of the city. As soon as practicable, but not later than December 31, 1941, the commission shall prepare, and thereafter from time to time may modify, a master plan of the city of Honolulu, as defined in section 3001, and of such other areas of the city and county as may be made subject thereto pursuant to the procedure therefor provided in section 3133.4, which shall show desirable streets, roads, highways, and the grades thereof, bridges, parks, parkways, and other public ways, playgrounds, sites for public buildings and other structures, building zone districts, use zone districts, waterways, routes of street railroads, omnibus and other public carriers, (provided that such plan shall not affect heretofore legally authorized routes), locations of drainage systems, sewers, sewage treatment plants, incinerators, water conduits, and other public utilities, privately or publicly owned, and such other features, changes and additions as will provide for the improvement of the city and its future growth and development, and afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health, and welfare of its population. Before adopting the master plan or any part or modification thereof, the commission shall hold a public hearing or hearings, published notice of each of which, (except an adjourned meeting), shall be given. The master plan and all modifications thereof shall be kept on file in the office of the commission.

"Sec. 3133.4. Projects and changes in and extensions of the master plan. After the adoption of the master plan or any part thereof, no public improvement or project affecting the master plan shall be initiated unless it conforms to the master plan or is authorized as in this subtitle provided. Before taking action on any proposed addition to or change in the master plan not initiated by the commission, the board of supervisors shall by resolution refer such proposal to the commission, which shall, after a public hearing, published notice of which shall be given, report thereon within thirty days with respect to the relation of such proposed addition or change to the master plan. If the commission shall report that the proposed change or addition conforms to the master plan or shall recommend approval or modification thereof, it may be adopted in accordance with the recommendation of the commission by a majority vote of the board of supervisors. If the commission shall report that the proposed addition or change does not conform to the master plan and shall not recommend approval thereof, or shall recommend a modification thereof not accepted by the board of supervisors, or shall fail to make its report within said period of thirty days, the board of supervisors may nevertheless authorize such addition or change, but only by the affirmative vote of at least five of its members.

An addition to or change in the master plan may be initiated by the commission by adopting a resolution for such purpose after public hearing, published notice of which shall be given. Such resolution

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shall be filed with the clerk of the city and county within five days from the date of its adoption. Unless the board of supervisors shall disapprove such resolution by the affirmative vote of at least five of its members within thirty days from the date of filing, or within said period the board shall by such vote modify such resolution, and the commission shall accept such modification, it shall thereupon take effect as an addition to or change in the master plan.

The master plan may be extended to areas of the city and county outside the limits of the city, as defined in section 3001, and any such extension may be initiated by the commission or the board of supervisors in the same manner as provided herein for the initiation of any addition to or change in the master plan, but no such extension shall be made if a protest against the same shall have been presented to the commission within thirty days after the reference of such proposal to the commission, or of the filing of the resolution of the commission, duly signed and acknowledged by the owners of thirty per centum or more of the land included in the area subject to the proposed extension. In case any portion of the area of land to which it is proposed that the master plan be extended is held by any lessee under a recorded lease, the unexpired term of which is more than five years from the date of the resolution of the board of supervisors referring such proposed extension to the commission, or of the resolution of the commission initiating such proposed extension, no such portion of such area may be taken into consideration for the purposes of this paragraph unless every such lessee shall also join with the owner of the reversion.

Upon the authorization of any addition to, change in or extension of the master plan in accordance with the provisions of this section, the commission shall make such revision of the master plan as shall be necessary to conform thereto.

"Sec. 3133.5. Approval of subdivisions. After the date of the adoption of the master plan as provided in section 3133.3, no map of the subdivision of land within the limits of the city, as defined in section 3001, or within any other area of the city and county which shall have become subject to the master plan, shall be received for recordation or filing in the office of the registrar of conveyances or the assistant registrar of the land court unless such map shall have been approved by authority of the commission. As used in this subtitle the word 'subdivision' means any plan for the division of a tract of land into smaller parcels in order to sell, lease or rent any of such parcels for residence purposes. Any such map not acted upon within fifteen days from its submission shall be deemed to have been approved, and a certificate to that effect shall be issued by authority of the commission on demand, provided that the applicant for the commission's approval may waive this requirement and consent to the extension of such period. No map shall be disapproved unless the same fails to conform to the master plan or unless the plan of any subdivision shown on such map is contrary to the subdivision regulations adopted by the commission under section 3133.6. The grounds of the disapproval of any such map shall be stated in the minutes or other records of the commission. If the commission shall disapprove any such map the applicant for such approval may present the same to the board of supervisors for approval within ten days after the disapproval thereof by the commission by filing such map in the office of the clerk of the city and county, and the board of supervisors may approve such map, but only by the affirmative vote of at least five of its members.

"Sec. 3133.6. Subdivision regulations. The commission shall adopt regulations for the coordination of streets within subdivisions with other existing or planned streets, or with other features of the master plan, for the adequate and convenient placing of open spaces for traffic, utilities, access for fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots, and for a proper distribution of population and traffic which will tend to create conditions favorable to public health, safety and morals. All such regulations shall be published as provided by law for the publication of ordinances.

"Sec. 3133.7. Issuance of building permits for and erection of buildings on unaccepted streets. No building permit shall be issued for any building to be erected on any lot within the area covered by the master plan unless the street giving access to the lot shall have been accepted or opened as, or shall have otherwise received the legal status of, a public street, or unless such street corresponds in its location and lines with a street shown on a subdivision map approved, or street plan adopted by, the commission, or with a street located or accepted by the board of supervisors after submission to and approval by the commission, or in case of the commission's disapproval, located or accepted by the affirmative vote of not less than five members of the board of supervisors; provided, that as a condition precedent to the issuing of any building permit for, or to the erection of, any building on an unaccepted street, such street shall have been, or satisfactory bond, with the amount and the surety approved by the chief engineer, shall be given that such street will within a reasonable time be, suitably improved to the satisfaction of the chief engineer in accordance with specifications approved by him substantially the same as those used by the city and county or required of other persons for comparable streets. No building shall be erected in violation of this section, and the city and county attorney may, in the name of the city and county, bring appropriate action to enjoin the erection or maintenance of such building.

"Sec. 3133.8. Prohibited sale of lots in unapproved subdivisions. No owner or agent of the owner of any land located within any area covered by the master plan shall sell or transfer such land or any portion thereof or interest therein by reference to or exhibition of a map or plan of a subdivision of such land unless such map has been approved by the commission and recorded in the office of the registrar of conveyances, or of the assistant registrar of the land court in case of registered land, and the office of the territorial surveyor. Any person violating this section shall forfeit and pay to the city and county a penalty of not less than one hundred nor more than five hundred dollars for each lot or any other interest in each lot so sold or transferred. The city and county attorney, in the name of the city and county, may bring suit to enjoin any proposed sale or transfer in violation of this section, or to recover said penalty.

"Sec. 3133.9. Permits for street railway and bus lines. The public utilities commission of the Territory shall not grant permission to any person to construct, operate or maintain any street railway or bus or other motor vehicle common carrier line on any street within any area covered by the master plan unless the location and extent thereof shall first have been submitted to and approved by the city planning commission; provided, that in case of disapproval, the commission shall communicate its reasons to the board of supervisors, which by a vote of not less than five members may overrule such disapproval, in which

event the public utilities commission shall have power to issue such permit.

"Sec. 3134. Zoning regulations. Any existing ordinance of the city and county to regulate and limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces or to regulate and restrict the location of trades and industries and the location of buildings designed for specific uses or creating districts for any such purpose, may be amended or repealed, and any new ordinance to regulate or determine any of said subjects or matters shall be enacted only in either of the two following modes, subject to the last proviso of this section:

(1) The commission may upon its own initiative at any time, or upon application as provided in section 3134.1, adopt a resolution for any such purpose, subject to any limits provided by statute, after public hearing, published notice of which shall be given. Such resolution shall be filed with the clerk of the city and county within five days from the date of its adoption. Unless the board of supervisors shall disapprove such resolution by a vote of at least five of its members within thirty days from the date of filing, or if within said period the board shall by such vote modify such resolution, and the commission shall accept such modification, it shall thereupon have the effect of an ordinance of the city and county, except as hereinafter in this section provided in the case of protest by property owners; or

(2) The board of supervisors may upon its own initiative at any time, by the affirmative vote of at least five members of said board, adopt an ordinance for any such purpose subject to any limits provided by statute; such ordinance shall thereupon be submitted to the commission which shall thereupon proceed to act upon the same in the same manner as to published notice and hearing as upon an application made pursuant to section 3134.1, and such ordinance shall not become effective unless approved by the commission after such published notice and hearing, a certificate of which approval shall be filed in the office of the city and county clerk within five days after such approval;

Provided, that in case a protest against any such proposed resolution of the commission or ordinance of the board of supervisors shall have been presented to the commission within thirty days after the filing of such resolution, or of the certificate of approval of the commission in the case of an ordinance initiated by the board of supervisors, duly signed and acknowledged by the owners of thirty per centum or more of the area of the land included in such proposed change or in such new ordinance, or by the owners of thirty per centum or more of the area of land immediately adjacent, extending one hundred feet therefrom, or by the owners of thirty per centum or more of the area of land directly opposite thereto, extending one hundred feet from the street frontage of such opposite land, such resolution or ordinance shall not be effective unless approved by the board of supervisors by unanimous vote of all members present. In case any portion of the area of land mentioned in this paragraph is held by any lessee under a recorded lease, the unexpired term of which is more than five years from the date of filing of such resolution, or of such certificate of approval of the commission, no such portion of such area may be taken into consideration for the purposes of this paragraph unless every such lessee shall also join with the owner of the reversion.

"Sec. 3134.1. Applications for changes in ordinances and for new ordinances. Any application for a change in any ordinance, or for any new ordinance, referred to in the preceding section, may be filed with the commission by the owner or lessee holding under a recorded lease of any real estate affected by any such ordinance or resolution, or to be affected by the proposed changes, upon depositing with the commission the sum of one hundred dollars to cover the cost of publication of notice of public hearing; provided, however, that no such application shall be considered by the commission unless seventy-five per centum of the persons being the owners or lessees holding under recorded leases (the unexpired term of which is more than five years from the date of filing such application) of real estate situated within a distance of seven hundred fifty feet from the nearest point of the real estate owned or held by the applicant, shall join in such application. The commission shall consider and act upon such applications, and shall hold public hearings thereon, notice of which shall be given in the same manner as provided in the preceding section."

Section 5. Chapter 92 of said Revised Laws is hereby further amended in the following respects:

(1) By amending section 3180 thereof to read as follows:

"Sec. 3180. Method. Whenever in the opinion of the board of supervisors of the city and county it is desirable to establish, open, extend, widen or alter any street, alley or other highway, including sidewalks, in the district of Honolulu, except Moanalua, or to grade, pave, curb, or macadamize or otherwise improve the whole or any part of any existing public street, alley or other highway or sidewalks in the district of Honolulu, except Moanalua, including the construction of a storm drainage system, or otherwise improve the same to an extent exceeding maintenance and repair thereof, or to construct or improve a storm drainage system independently, such betterments or improvements shall be made and done under the provisions of this chapter; and the cost thereof, including the cost (if not assumed by the city and county under the discretionary power contained in section 3184) of acquiring, whether prior to or after the commencement of the proceedings for such betterments or improvements, any new land therefor, shall be assessed against the land specially benefited, either on a frontage basis or according to area of the land within an improvement district or on both an area and frontage basis; and the city and county may issue and sell bonds to provide the funds for such improvements, which bonds shall be secured by such assessments as a lien upon the lands assessed; and for such purpose the board is vested with power and is authorized to create, define and establish frontage improvements or improvement districts; all according to the provisions of this chapter." [L. 1913, c. 131, s. 1; am. L. 1915, c. 164, s. 1; am. L. 1917, c. 239, s. 1; am. L. 1919, c. 241, s. 1; am. L. 1920, c. 13, s. 1; am. L. 1923, c. 184, s. 1; am. L. 1925, c. 191, s. 1; R. L. 1935, s. 3180; am. L. 1939, c. 242, pt. of s. 5.]

[**Sec. 3181. Sewers included.** Amended by Act 210, infra, page 171.]

(2) By inserting after the figures "3187" in the fourteenth line of section 3184 thereof, the following:
"or 3188."

(3) By adding thereto a new section, to be numbered section 3189A, reading as follows:

"Sec. 3189A. Compliance with provisions relating to city planning commission necessary. Notwithstanding any provision in this chapter to the contrary, the actual construction of any improvement under this chapter in any area then covered by the master plan shall not be commenced unless the improvement shall conform to, or shall not be inconsistent with, the master plan, and shall, if it is of such nature as comes within the purview of any of sections 3133.4, 3133.5 or 3133.6, have been duly authorized pursuant to the provisions of said sections."

Section 6. Chapter 93 of said Revised Laws is hereby further amended in the following respects:

(1) By adding, after the word "report" at the end of section 3225 thereof, the words "audited by the city and county auditor".

(2) By amending section 3227 thereof to read as follows:

"Sec. 3227. Parks in charge of park board. All public parks and public recreation grounds in the city and county, owned by it or in its possession and control, other than the Makiki Valley Park or reservation, together with all equipment, supplies, paraphernalia, and all real and personal property of whatsoever nature used in connection with the same, shall be under the control and management of the park board; provided, however, that all personal property in the possession and control of the recreation commission of the city and county shall remain in the possession and control of the commission. The park board shall determine the nature of all permanent improvements and in this regard shall determine the additional park property that may be acquired from time to time and the kind and nature of improvements to be constructed on the same. The park board shall also have full and complete authority over the trimming and removing of all shade trees, hedges and shrubs growing on the public streets of the district of Honolulu and the planting of the same upon such streets, and concurrently with the respective property owners shall have full and complete authority over the trimming and removing of all shade trees, hedges and shrubs growing over the public streets of such district. It shall furthermore cooperate with the recreation commission in all matters pertaining to the promotion of public recreation." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3227; am. L. 1939, c. 242, pt. of s. 6.]

(3) By amending section 3228 thereof to read as follows:

"Sec. 3228. Purchases and sale of park property; contracts. The board of supervisors shall not purchase any real property for park purposes, nor sell, exchange or otherwise dispose of any park property, whether real or personal, without the prior written approval of the park board. All proceeds of any such sale shall be deposited with the treasurer and all such proceeds from the sale of real property shall be expended only for the acquisition of other real property for park purposes, and all such proceeds from the sale of personal property shall be expended only for the acquisition of other personal property for park purposes.

The park board shall have power to contract for work, and to purchase supplies, materials or equipment, the cost of all of which shall be met from the funds it may have on hand either by appropriation from the board of supervisors or otherwise. All contracts shall be executed in the name of the board and shall be signed by the chairman or acting chairman. The park board shall also have

authority to contract for the importation of or to import for the purpose of keeping and to keep in captivity foreign birds for educational and scientific purposes, subject to the rules and regulations of the board of agriculture and forestry relative to the importation and keeping in captivity of such birds." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3228; am. L. 1935, c. 196, s. 3; am. L. 1939, c. 242, pt of s. 6.]

- (4) By amending section 3230 thereof to read as follows:

"**Sec. 3230. Gifts.** The park board, for and in the name of the city and county, may receive gifts, bequests or devises of land, buildings, money and all kinds and varieties of personal property to carry out any of the purposes of this chapter and may expend and contract to expend the money thus received for the purposes for which the same is given or bequeathed." [L. 1931, c. 175, pt. of s. 2; R. L. 1935, s. 3230; am. L. 1935, c. 196, s. 5; am. L. 1939, c. 242, pt. of s. 6.]

- (5) By repealing section 3231 thereof.

(6) By substituting for the words "two hundred and fifty thousand", in the 3rd and 4th lines of section 3232 thereof, as amended by Act 196, series B-83, of the Session Laws of Hawaii 1935, and set forth on page 141 of said Session Laws, the words "two hundred and seventy-five thousand"; and by substituting for the words "fifty thousand" in the 8th line of said section, on said page 141, the words "seventy-five thousand".

- (7) By deleting from the first and second lines of section 3234 thereof the words "in its discretion".

Section 7. Chapter 94 of said Revised Laws is hereby further amended in the following respects:

(1) By substituting for the words "by sections 3240 to 3253" in the last line of section 3240 thereof the words "in this chapter".

- (2) By amending section 3241 thereof to read as follows:

"**Sec. 3241. Police commission; appointment.** A police commission is created to consist of five members, all of whom shall not belong to the same political party at the time of appointment. The members shall be appointed by the mayor with the approval of the board of supervisors. No member of the commission shall be a salaried officer or employee of the Territory or any political subdivision thereof. Each commissioner must be at the time of his appointment an elector of the city and county and must have been such for at least three years next preceding his appointment. Any commissioner may be removed from office by the mayor with the concurrence of the vote of five members of the board of supervisors. The commissioners shall serve without remuneration, but may be reimbursed for their reasonable traveling and other expenses incurred in the discharge of their duties. The commission may employ such clerks, employees and other assistants, at such salaries, as it may find necessary." [L. 1932, 1st, c. 1, pt. of s. 1; R. L. 1935, s. 3241; am. L. 1939, c. 242, pt. of s. 7.]

- (3) By amending section 3242 thereof to read as follows:

"**Sec. 3242. Term of office.** The commissioners shall be appointed for staggered terms of five years from the expiration of their re-

spective predecessor's terms. Any vacancy in the commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term." [L. 1932, 1st, c. 1, pt. of s. 1; R. L. 1935, s. 3242; am. L. 1939, c. 242, pt. of s. 7.]

(4) By deleting from section 3245 thereof the last sentence.

(5) By amending section 3246 thereof to read as follows:

"Sec. 3246. Police force, employees. The chief of police shall have the power to appoint police officers and other officers and employees under such rules and regulations and at such salaries as may be authorized by law, or, where not specifically covered by law, as may be prescribed by the commission, but the commission may abolish any office or position in the department and revoke the commission therefor, in which event, when necessary, the commission shall determine which of several officers or employees in the same class shall be released; provided, that country police shall receive the same allowances as urban police of the same class. Such rules and regulations shall provide that appointments may be made in the first instance for a probationary period of not over one year. The chief of police, with the approval of the commission, may appoint and remove without cause instructors of the police who need not have any residential qualifications. Except as otherwise provided, all acts or duties which may be performed by the chief of police may in like manner and with like effect be performed by any police officer under him."

[L. 1932, 1st, c. 1, pt. of s. 1; R. L. 1935, s. 3246; am. L. 1935, c. 73, s. 1; am. L. 1939, c. 242, pt. of s. 7.]

(6) By deleting, at the end of the second paragraph of section 3247 thereof, the words and figures "and chapter 83, part 1".

(7) By repealing section 3251 thereof.

Section 8. Chapter 95 of said Revised Laws is hereby further amended in the following respects: [Secs. 3260, 3261, relating to board of water supply, amended by Act 253, infra, pages 172, 173.]:

(1) By amending section 3262 thereof to read as follows:

"Sec. 3262. Appointment. The appointive members of the board shall be appointed by the mayor, with the approval of the board of supervisors, for staggered terms of five years from the expiration of their respective predecessor's term. Officers and employees of the Territory or of the city and county shall not be eligible for appointive membership. Any vacancy in the appointive membership, otherwise than by expiration of a term of office, shall be filled by appointment for the remainder of such unexpired term. Each member must be, at the time of his appointment, an elector of the city and county and must have been such for at least five years next preceding his appointment.

The mayor, with the approval of the board of supervisors, shall designate a member as chairman of the board.

The members of the board shall serve without pay, and may be removed from office in the manner provided by section 3065." [L. 1929, c. 96, s. 3; R. L. 1935, s. 3262; am. L. 1935, c. 125, s. 1; am. L. 1939, c. 242, pt. of s. 8.]

(2) By amending the second paragraph of section 3265 thereof to read as follows:

"He shall appoint and detail to the board such attorneys as the board may deem necessary to conduct its legal work, and the compensation, or such proportion thereof as shall be agreed upon between the board and the board of supervisors, of such attorneys so detailed shall be paid from the revenues of the water works. Such attorneys shall be deputies of the city and county attorney, and may be in addition to the deputies and assistants allowed him by law."

(3) By amending section 3266 thereof to read as follows:

"Sec. 3266. Outstanding obligations. All outstanding obligations in connection with the operation of the water system shall be paid by the board out of water works funds." [L. 1929, c. 96, s. 7; R. L. 1935, s. 3266; am. L. 1939, c. 242, pt. of s. 8.]

[Sec. 3266 also amended by Act 253, infra page 173.]

(4) By amending section 3267 thereof to read as follows:

"Sec. 3267. Purchase and sale of water works property; contracts. The board shall have power to contract for work, and to purchase supplies, materials or equipment, when the cost of the same can be met from the revenues or reserves of the water works, or from the proceeds of bonds authorized for the water works. All contracts shall be executed in the name of the board and shall be signed by the chairman or acting chairman of the board.

The board of supervisors shall not purchase any real or personal property for the purposes of the board nor sell, exchange or otherwise dispose of any real property under the management of the board, without the prior written approval of the board. The board may sell or otherwise dispose of any buildings, materials, supplies, or equipment, under its control, when no longer used or useful for its purposes. All documents of transfer of such buildings and personal property shall be executed in the name of the board and shall be signed by the chairman or acting chairman thereof. All proceeds of any such sale shall be deposited with the treasurer and be by him placed to the credit of the board." [L. 1929, c. 96, s. 8; R. L. 1935, s. 3267; am. L. 1939, c. 242, pt. of s. 8.]

(5) By substituting for the word "financial" in the second line of section 3270 thereof the word "financing".

(6) By substituting for the word "governor", wherever the same appears in section 3289 thereof, the word "mayor".

Section 9. Chapter 137 of said Revised Laws is hereby amended by adding, at the end of section 4746 thereof, the following:

"If the land is situated in the city of Honolulu, as defined in section 3001, or is within any other area of the city and county to which the master plan of said city has been extended, any plan for a subdivision thereof as defined in section 3133.5 shall, before approval by the court, be subject to approval by the city planning commission in like manner as subdivisions under said section 3133.5."

Section 10. Chapter 144 of said Revised Laws is hereby amended by deleting the period at the end of section 5044 thereof and inserting a comma in lieu thereof, and the words and figures: "and that the applicant has complied with section 3133.5".

Section 11. Chapter 145 of said Revised Laws is hereby further amended in the following respects:

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[SERIES B-79.—Act 242.

[SERIES B-80.—Act 117.]

- (1) By inserting, at the end of the second paragraph of section 5120 thereof, the following:

"If the land is situated in the city of Honolulu, as defined in section 3001, or is within any other area of the city and county to which the master plan of said city has been extended, any plan for the subdivision thereof as defined in section 3133.5 shall, before approval by the surveyor, be subject to approval by the city planning commission in like manner as subdivisions under said section 3133.5."

- (2) By amending section 5127 thereof to read as follows:

"Sec. 5127. Report of violations. Whenever it shall come to the knowledge of the registrar that any of the provisions of sections 5126 or 3133.8 have been violated it shall be his duty to notify the attorney general and, if land within the city and county is involved, the city planning commission of the city and county of Honolulu, of the fact." [L. 1911, c. 46, s. 2; R. L. 1935, s. 5127; am. L. 1939, c. 242, pt. of s. 11.]

Section 12. Saving clause. If any portion of this Act or its application to any person or circumstances, shall be held unconstitutional or invalid, the remainder of this Act, and the application of such portion to other persons or circumstances, shall not be affected.

Section 13. Effective date. This Act shall take effect June 1, 1939.

(Approved May 16, 1939.) **S.B. 42, Act 242.**

[B-80] An Act to Amend Section 3022, Revised Laws of Hawaii 1935, Relating to the Leahi Home Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3022 of the Revised Laws of Hawaii 1935 is hereby amended by deleting the words "two hundred and fifty" appearing in the third and seventh lines of said section and inserting in lieu thereof in each of said lines the words "three hundred".

Section 2. Three hundred thousand dollars shall be made available to the Leahi Home for the calendar year 1939 upon submission of a revised budget for such amount by the board of trustees of Leahi Home to the board of supervisors prior to April 30, 1939.

Section 3. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **S.B. 371, Act 117.**

SHERIFF'S DUTIES.
DENTIST FOR INDIGENTS.

SERIES B-81.—Act 178.]

SERIES B-82.—Act 194.]

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[B-81] An Act Amending Section 3105 of the Revised Laws of Hawaii 1935, Relating to the Specific Duties of the Sheriff of the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3105 of the Revised Laws of Hawaii 1935, is hereby amended by inserting a new paragraph at the end thereof, designated as paragraph 5, to read as follows:

“5. for the purpose of carrying out the specific duties in this section contained, the sheriff and his deputies shall exercise all the powers of a police officer.”

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1939.) **H.B. 519, Act 178.**

[B-82] An Act Authorizing and Directing the Board of Supervisors of the City and County of Honolulu to Appoint a City and County Dentist to Care for Indigent Patients, and to Appropriation Funds for His Equipment, Salary and Expenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 3114A.] Section 1. [Dentist, appointment, qualifications.] The board of supervisors of the city and county of Honolulu is hereby authorized and directed to appoint a city and county dentist, whose full time duty it shall be to care for, free of charge for either services or materials, the dental needs of all indigents in said city and county. He shall be a person duly licensed to practice dentistry under chapter 28 of the Revised Laws of Hawaii 1935, and approved by the dental society of said city and county. He shall accept no fees from any patients, whether indigents or not, his salary being in full compensation for all dental services rendered, of whatsoever nature.

In the determination of indigency, and of what patients are in need of dental work, the city and county dentist shall cooperate with the board of health, the board of public welfare, the unemployment compensation commission, and any other welfare or social agencies of the city and county of Honolulu.

He shall render a monthly report of all his official activities to the city and county physician.

[Sec. 3114B.] Section 2. [Appropriations.] The board of supervisors of said city and county is hereby authorized and directed forthwith to appropriate from the general fund of the city and county the sum of five thousand five hundred dollars (\$5,500.00) for the purchase of a mobile dental unit for said city and county, to be in the charge of the city and county dentist, and to appropriate from said fund annually for the following purposes the sums set opposite thereto:

Salary of city and county dentist	\$3,000.00
Supplies, city and county dentist	1,000.00
Miscellaneous expenses, city and county dentist	700.00

Reductions in said annual amounts may be made by the board to

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[SERIES B-82.—Act 194.

[SERIES B-83.—Act 12.

the extent of any funds which may be made available to it for such purposes under the Federal Social Security Act.

Section 3. This Act shall take effect upon its approval, provided, that the annual appropriations to be made for the remainder of the year 1939 shall be one-half the said annual sums in this Act mentioned.

(Approved May 8, 1939.) **S.B. 340, Act 194.**

[B-83] An Act to Amend Section 3124 of the Revised Laws of Hawaii 1935, Relating to Inspection of Public Records.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3124 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 3124. **Records open to inspection; copies.** All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours. Certified copies or extracts from such books and records shall be given by the officer having the same in custody to any citizen demanding the same, and paying or tendering twenty cents a folio of one hundred words for such copies or extracts; but the records of the police department or of the public prosecutor shall not be subject to such inspection unless permission be given by the chief of police or the public prosecutor, except in the case of traffic accidents where such records, including all statements taken, shall after the termination of any criminal proceeding arising out of any such accident, or in any event after six months from the date of said accident, be available for inspection by the parties directly concerned in such accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue under the provisions of section 4052 because of death resulting from any such accident shall be deemed a party directly concerned. [L. 1907, c. 118, s. 140; am. imp. L. 1932, 2d, c. 1, s. 1; R. L. 1935, s. 3124; am. L. 1939, c. 12, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved March 20, 1939.) **S.B. 15, Act 12.**

HIGHWAYS, IMPROVEMENT BY ASSESSMENT.
PARKS BOARD.

SERIES B-84.—ACT 210.]

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**CHAPTER 92. HIGHWAYS,
IMPROVEMENT BY ASSESSMENT.**

[B-84] An Act Amending Section 3181 of the Revised Laws of Hawaii 1935, Relating to Sanitary Sewerage Systems in the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3181 of the Revised Laws of Hawaii 1935 is hereby amended by deleting the "period" at the end thereof and substituting therefor a "semi-colon", and by adding thereafter a new proviso to read as follows:

"and provided, further, that for the installation of sanitary sewerage systems, the lands especially benefitted by such improvement shall be assessed according to the area of the lands within an improvement district at a rate not to exceed one cent per square foot, and the balance of the costs shall be borne by the city and county."

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **S.B. 289, ACT 210.**

CHAPTER 93. PARKS BOARD

[Sec. 3225. Reports. Amended by Act 242, supra, page 164.]

[Sec. 3227. Parks in charge of park board. Amended by Act 242, supra, page 164.]

[Sec. 3228. Purchases and sale of park property; contracts. Amended by Act 242, supra, page 164.]

[Sec. 3230. Gifts. Amended by Act 242, supra, page 165.]

[Sec. 3231. Budget. Repealed by Act 242, supra, page 165.]

[Sec. 3232. Appropriations. Amended by Act 242, supra, page 165.]

[Sec. 3234. Income from operation of parks. Amended by Act 242, supra, page 165.]

CHAPTER 94. POLICE DEPARTMENT.

[Sec. 3240. **Organization.** Amended by Act 242, supra, page 165.]

[Sec. 3241. **Police commission; appointment.** Amended by Act 242, supra, page 165.]

[Sec. 3242. **Term of office.** Amended by Act 242, supra, page 165.]

[Sec. 3245. **Chief of police.** Amended by Act 242, supra, page 166.]

[Sec. 3246. **Police force, employees.** Amended by Act 242, supra, page 166.]

[Sec. 3247. **Powers and duties of chief of police.** Amended by Act 242, supra, page 166.]

[Sec. 3251. **Appropriations.** Repealed by Act 242, supra, page 166.]

**CHAPTER 95. WATER SUPPLY,
BOARD OF.**

[B-85] An Act To Authorize the Transfer of the Rural Water Works of the City and County of Honolulu to the Board of Water Supply of Said City and County, and in Such Connection to Amend Sections 3260, 3261, 3266 and 3275 of the Revised Laws of Hawaii 1935, Relating to Said Board.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3260 of the Revised Laws of Hawaii 1935 is hereby amended by amending the third and fourth paragraphs thereof to read, respectively, as follows:

"'Water works' or 'Honolulu water works' shall mean all of the property comprising the water works and water system supplying the district of Honolulu with water and water power, held and administered on April 27, 1929, under the name of the Honolulu water and sewer department and the electric light department, and all of the property comprising the rural water systems of the city and county of Honolulu on the date of the transfer of such rural water systems to the board by the board of supervisors, and any property or equipment added thereto.

'Honolulu water and sewer department' shall mean and include any bureau, division or subdivision thereof of the department of public works of the city and county, appertaining to or dealing with the supplying of water in the district of Honolulu, including those known on April 27, 1929, as 'The Bureau of Water Revenue', 'The Mapping and Metering Division', and that portion of 'The Bureau of Water Supply and Sewers' pertaining to the supply of water only, and also including that portion of the 'Department of Public Works' operating and maintaining the rural water systems on the date of said transfer of such rural water systems to the board."

BOARD OF WATER SUPPLY.

SERIES B-85.—ACT 253.]

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Section 2. The first paragraph of section 3261 of said Revised Laws is hereby amended to read as follows:

“Board of water supply. A board of water supply is created to consist of seven members of whom five shall be appointive members and be appointed as hereinafter provided and of whom two shall always be the persons who for the time being shall be the legal incumbents of the offices of superintendent of public works of the Territory and the chief engineer of the department of public works of the city and county of Honolulu, whose duty it shall be to manage, control and operate the water systems and properties of the city and county, for the supplying of water to the public within the city and county of Honolulu; and to collect, receive expend and account for all sums of money derived from the operation thereof, and all other moneys provided for the use or benefit of the water systems, as in this subtitle provided. Without limitation as to the generality of the foregoing, such properties shall include all those properties described and included in a resolution entitled ‘Transfer of Honolulu Water Works’ dated February 9, 1922, and signed by the governor, and in addition thereto, all properties acquired, held or used for or in connection with water works or supplies for the city and county of Honolulu, since July 1, 1914, and the following.”

[Sic]

Section 3. Paragraph numbered 3, and the last paragraph of said section 3261 are hereby amended to read, respectively, as follows:

“3. All extensions, additions, increases, improvements and betterments in connection with such water systems; all water and water rights for the purpose of supplying water; and all works, equipment, supplies and general paraphernalia incidental to the operation and administration of such water systems.

All of the powers and functions provided to be exercised and performed by the board of supervisors in relation to the Honolulu Water Works by Act 138, Session Laws 1913, as amended, and by the Honolulu sewer and water commission, or by the board of supervisors by Act 150, Session Laws 1925, Acts 40 and 222 of the Session Laws of 1927, and acts amendatory thereof, and by the department of public works of the city and county of Honolulu with relation to the rural water systems of the city and county of Honolulu on the date of said transfer of such rural water systems to the board, shall devolve upon and be exercised and performed by the board of water supply, except as in this subtitle otherwise provided.”

[Sec. 3262. Appointment. Amended by Act 242, supra, page 166.]

[Sec. 3265. Legal department. Amended by Act 242, supra, page 166.]

Section 4. Section 3266 of said Revised Laws is hereby amended to read as follows:

“Sec. 3266. Transfer of funds; obligations. All moneys in the city and county treasury belonging to any fund of the water works system for the district of Honolulu upon July 1, 1929 and all moneys thereafter collected belonging to any such fund, including those belonging to the ‘water works working fund’ or the ‘water works department’ and all funds belonging to the rural water systems of the city and county of Honolulu on the date of said transfer of such rural water systems to the board, including those belonging to the ‘rural water works fund’ and the ‘rural water works working fund’ and all moneys thereafter

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collected belonging to any such fund shall, by the treasurer, be placed to the credit of the board.

All moneys in the territorial treasury on the date of said transfer of such rural water systems to the board, with respect to the appropriations made under item 18 of Act 203, Session Laws 1935, and Act 205, Session Laws 1935, which would, under the terms and conditions of said acts be paid to the city and county of Honolulu shall be paid by the treasurer of the Territory of Hawaii to the board, said moneys to include the sum of \$25,000.00 appropriated by the Territory under Act 205, Session Laws 1935, the conditions of said Act hereby being declared to have been fulfilled by said city and county and the Hawaiian Homes Commission.

All outstanding obligations in connection with the operation of the water systems shall be paid by the board out of its water works fund." [L. 1929, c. 96, s. 7; R. L. 1935, s. 3266; am. L. 1939, c. 253, s. 4.]

[Sec. 3266 also amended by Act 242, supra, page 167.]

[Secs. 3267, 3270 amended by Act 242, supra, page 167.]

Section 5. Section 3275 of said Revised Laws, as amended by Act 187, Series B-87, of the Session Laws of 1935, is hereby amended by substituting for the term "district of Honolulu", in the eighth line of said section as set forth on page 144 of said Session Laws, the term "city and county of Honolulu"; and by amending the last sentence thereof to read as follows:

"There shall be no free water except as authorized by the legislature, provided that the city and county shall not be required to pay any amount to the board for water or water service furnished for the purpose of fire protection prior to July 1, 1939. Thereafter the city and county shall pay monthly to, upon statements rendered by, the board, the sum of \$4.00 for each and every fire hydrant maintained at any time during during said month by the board in the city and county. Said payments shall be made within thirty days of the receipt of such statements."

[Sec. 3289. Rules and regulations. Amended by Act 242, supra, page 167.]

Section 6. The board of supervisors of the city and county of Honolulu is hereby authorized, at such time as it shall deem advisable, to provide, by resolution enacted and published in the manner provided by sections 3016 and 3018, for the transfer to the board of water supply, on a definite date to be specified in such resolution, of the control, maintenance and operation of the funds, property and obligations of the rural water systems referred to in this Act.

Section 7. Sections 1 to 5 inclusive of this Act shall not take effect unless and until the board of supervisors of the city and county of Honolulu shall adopt the resolution referred to in section 6 hereof; in the event of the adoption of such resolution, said sections 1 to 5, inclusive, shall thereupon become effective upon and as of the date specified in such resolution for the transfer of the funds, property and obligations mentioned in said section 6. Said section 6 of this Act shall take effect upon the approval of this Act.

(Approved May 17, 1939.) S.B. 279, ACT 253.

COURTS.

SERIES C-86.—Act 18.]

SERIES C-87.—Act 6.]

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Title XIV. APPEAL AND ERROR.

CHAPTER 96. APPEALS: BONDS.

[C-86] An Act to Amend Section 3501 of the Revised Laws of Hawaii 1935, Relating to Appeals to the Supreme Court from Decisions, Judgments, Orders or Decrees of Circuit Judges in Chambers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3501 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 3501. **From circuit judges in chambers.** Appeals shall be allowed from all decisions, judgments, orders or decrees of circuit judges in chambers, to the supreme court, except in cases in which the appellant is entitled to appeal to a jury, whenever the party appealing shall file notice of his appeal, pay the costs accrued and deposit the amount required for the payment of the costs for the filing of the appeal in the supreme court, within five days after the filing of the decision, judgment, order or decree appealed from; provided, however, that in any case in which the law allows an appeal from the decision, judgment, order or decree of a judge in chambers to be tried before a jury, the judge whose decision, judgment, order or decree is appealed from shall not preside at the trial of such appeal before a jury.

"Appeals may be allowed upon like terms as to payment and deposit of costs, by the circuit judge in his discretion from decrees overruling demurrers or from interlocutory judgments, orders or decrees whenever the circuit judge may think the same advisable for the more speedy termination of litigation. The refusal of the circuit judge to allow an appeal from an interlocutory judgment, order or decree shall not be reviewable by any other court." [L. 1892, c. 57, s. 69; am. L. 1892, c. 109, s. 1; am. L. 1898, c. 40, s. 1; R. L. 1935, s. 3501; am. L. 1939, c. 18, s. 1.]

Section 2. This Act shall take effect on June 1, 1939.

(Approved March 29, 1939.) **S.B. 10, Act 18.**

BONDS ON APPEAL, EXCEPTIONS, NEW TRIAL, ERROR.

[C-87] An Act to Amend Chapter 96 of the Revised Laws of Hawaii 1935, As Amended, Relating to the Payment of Costs In Connection With Bills of Exceptions, Appeals and Writs of Errors.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 96 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be designated as section 3509 and to read as follows:

"Sec. 3509. **Payment of insufficient costs not cause for dismissal.** No bill of exceptions or writ of error and no appeals of any kind whatsoever to any court shall be dismissed by reason of the payment

of an insufficient amount of costs, unless upon neglect of the party required to pay such costs to comply with an order of a court or judge having jurisdiction directing that the correct amount of such costs be paid within a specified time, not less than twenty-four hours."

Section 2. This Act shall take effect upon its approval.

(Approved March 9, 1939.) **S.B. 8, Act 6.**

Title XV. COURTS.

CHAPTER 102. SUPREME COURT.

[C-88] An Act Authorizing the Supreme Court to Prescribe By General Rules the Practice and Procedure In Civil Actions At Law and In Equity In All Courts of the Territory, to Prescribe General Rules for the Conduct of the Business of All Courts, and Authorizing the Supreme Court to Appoint A Procedural Rules Committee, and Fixing and Defining Its Powers and Duties.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 3602A.] Section 1. [Rules relating to procedure and practice.] From and after the effective date of this Act the supreme court shall have the power from time to time to prescribe by general rules the forms of actions, process, writs, pleadings and motions, and the practice and procedure in civil actions at law and in equity for all courts having jurisdiction in civil actions, and for all such other courts as the legislature shall hereafter establish having jurisdiction in civil actions; provided, however, that such rules shall be consistent with the Organic Act and shall neither abridge, enlarge or modify the substantive rights of any litigant, nor the jurisdiction of any of the said courts, nor affect any statute of limitations. Prior to the adoption, promulgation and publication of any general rule or any amendment thereof except the general rules referred to in section 3 hereof, the supreme court shall provide for a public hearing at which all interested persons may appear, and at the time of the adoption, promulgation and publication of its general rules the supreme court shall fix the effective date thereof which shall not be less than six months from the date of the adoption thereof and may fix the extent to which they shall apply to proceedings then pending.

[Sec. 3602B.] Section 2. [Procedural rules committee.] The supreme court is hereby authorized and empowered to appoint a procedural rules committee, the members of which shall have been admitted to practice before the supreme court, which shall assist the supreme court in the preparation, revision, promulgation, publication and administration of the said general rules.

[Sec. 3206C.] Section 3. [Rules for business of courts.] For the purpose of expediting any business of the courts in the Territory, in any matter which is not otherwise specifically regulated by law or by any of the general rules hereinabove provided for, and for the purpose of facilitating a speedy and proper administration of justice, the su-

DISTRICT COURT PRACTITIONERS.

SERIES C-88.—ACT 215.]

SERIES C-89.—ACT 176.]

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preme court shall have power to prescribe general rules for the conduct of all business of and the practice in any of the courts of the Territory, which rules shall be effective as of the date fixed by the supreme court.

[Sec. 3602D.] Section 4. [Effect of rules; effective date.] All general rules made under the provisions of this Act shall, when promulgated, have the force and effect of law and shall supersede any statute in conflict therewith. It is provided, however, that no such rules shall take effect prior to June 1, 1941.

Section 5. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **S.B. 273, Act 215.**

PRACTITIONERS IN DISTRICT COURTS.

[C-89] An Act to Amend Section 3613 of the Revised Laws of Hawaii 1935, Relating to the Admission of the District Court Practitioners.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3613 of the Revised Laws of Hawaii 1935, as amended by Act 28, Series C-89 of the Session Laws of Hawaii 1935, as further amended by Act 181, Series C-82 of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

“Sec. 3613. Admission, qualifications, license fee. The supreme court shall have power to examine and admit, as practitioners in the district courts throughout the territory, such persons, of good moral character, who are citizens of the United States, and who have taken the prescribed oath of office, as such court may find qualified for the purpose.

The judges of the several circuit courts shall have power to examine and admit, as practitioners in the district courts within their respective circuits only, such persons, of good moral character, who are citizens of the United States and bona fide residents in such circuit, and who have taken the prescribed oath of office, as such judges may find qualified for the purpose, provided, that such a license issued by the judge of either the third or fourth circuit shall authorize the licensee to practice in all the district courts in the County of Hawaii.

All such practitioners shall be licensed to practice during good behavior; provided, however, that all licenses to practice in the district courts heretofore issued and now unrevoked shall continue in force and effect, subject, however, to cancellation and revocation as by law provided; and further provided, however, that from and after the second day of January, 1940, no new or additional such practitioners shall be licensed to practice in any district court within the first judicial circuit.” [L. 1879, pt. of c. 31; am. L. 1919, c. 19, s. 1; R. L. 1935, s. 3613; am. L. 1935, c. 28, s. 1; am. L. 1937, c. 181, s. 1; am. L. 1939, c. 176, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1939.) **H.B. 256, Act 176.**

CIRCUIT COURTS.

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[SERIES C-90.—ACT 57.
[SERIES C-91.—ACT 11.]

CHAPTER 103. CIRCUIT COURTS.

CIRCUITS, JUDGES, SESSIONS, ETC.

[C-90] An Act to Amend Section 3632 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Number and Designation of Judges of the First Judicial Circuit.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first paragraph of Section 3632 of the Revised Laws of Hawaii 1935, as amended by Act 79, Series C-83 of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

"Sec. 3632. First circuit court judges. The circuit court of the first circuit shall consist of not more than five judges, who shall be styled as first, second, third, fourth and fifth judges. The judge of the circuit court styled fourth judge shall be judge of the court of domestic relations."

Section 2. This Act shall take effect upon its approval.

(Approved April 15, 1939.) **S.B. 326, Act 57.**

JURISDICTION AND POWERS.

[C-91] An Act to Amend Chapter 103 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto to be Designated Section 3645-A, Relating to Trials by Circuit Judges in Chambers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 103 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto to be designated section 3645-A and to read as follows:

"Sec. 3645-A. What causes and proceedings may be tried; when. Except for reasons which may be deemed sufficient by the circuit judge in chambers, the trial of a contested cause or proceeding before any circuit judge in chambers shall not be commenced during the months of July and August unless upon consent of all parties."

Section 2. This Act shall take effect upon its approval.

(Approved March 20, 1939.) **S.B. 9, Act 11.**

JURORS: COSTS.

SERIES C-92.—Act 116.]

SERIES C-93.—Act 19.]

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CHAPTER 106. JURORS.

[C-92] An Act to Amend Section 3716 of the Revised Laws of Hawaii 1935, Relating to Pay of Jurors.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3716 of the Revised Laws of Hawaii 1935 is hereby amended by deleting the word "three" wherever the same appears in said section and inserting in lieu thereof the word "four".

Section 2. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **S.B. 61, Act 116.**

CHAPTER 108. COSTS.

CIRCUIT AND SUPREME COURTS.

[C-93] An Act to Amend Chapter 108 of the Revised Laws of Hawaii 1935, Relating to Costs and Fees by Amending Sections 3791, 3793 as Amended and 3794 and Repealing Section 3792 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3791 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 3791. Costs, supreme court and justices thereof:

"1. Upon the filing of any appeal, bill of exceptions or application for the issuance of writ of error or the institution of any original suit, action or other proceeding in the supreme court, there shall be paid to the clerk of the supreme court by the person filing such appeal, bill of exceptions or application for the issuance of writ of error or instituting such suit, action or other proceeding, as costs of court, the sum of \$25.00 and, in addition, for every person to be served personally with process 1.00

"2. In addition to the costs of court hereinabove enumerated, the clerk of the supreme court shall charge and collect, for miscellaneous services performed by him, the following sums:

"(a) For filing any paper not in a pending suit, action or other proceeding25

"(b) For issuing any subpoena25

"(c) All amounts necessary to cover actual costs or disbursements for printing, publishing or posting notice, service fees, mileage charges or other services actually performed.

"Costs, circuit courts and circuit judges in chambers:

"1. Upon the institution of any suit, action or other proceeding in the circuit court, whether by original process, complaint, libel,

petition, information or otherwise, or by the filing of papers on appeal to the circuit court, there shall be paid to the clerk of the circuit court by the person so instituting such suit, action or other proceeding, as costs of court, except as otherwise provided, the following sums:

(a) Proceedings in law, equity and probate, where not hereinafter otherwise specified 15.00
and, in addition, for every person to be served personally with process 1.00

"(b) Proceedings relating to declaratory judgments, certiorari, mandamus, quo warranto, prohibition, habeas corpus, rights of private ways and water rights, proceedings in divorce, annulment, separation, separate maintenance and appeals to the circuit court (except appeals in criminal cases) 10.00
and, in addition, for every person to be served personally with process 1.00

"(c) Proceedings in adoption and for the appointment of guardians 3.00
and, in addition, for every person to be served personally with process 1.00

"2. Upon the filing of any paper in the nature of a cross bill or petition, cross libel, counterclaim, intervention or wherein any affirmative relief is sought, there shall be paid to the clerk of the circuit court by the person filing the same, as costs of court, the sum of 5.00 and, in addition, for every person to be served personally with process 1.00

"3. Upon the filing of any initial paper in the following matters, there shall be paid to the clerk of the circuit court by the person filing the same, as costs of court, the following sums:

"(a) Proceedings relating to the accounts of trustees or guardians; the resignation or removal of trustees, guardians, executors or administrators; the appointment of new trustees, guardians or administrators; the sale, mortgage, lease or other disposition of property by trustees, guardians, executors or administrators; family allowance; the investment of trust funds; the taking of depositions; the perpetuation of testimony; garnishment after judgment; examination of judgment debtors; the issuance of orders to show cause; and notice of lien of mechanics and materialmen 2.00
and, in addition, for every person to be served personally with process 1.00

"(b) Proceedings for instructions 10.00
and, in addition, for every person to be served personally with process 1.00

"4. If in any suit, action or other proceeding, whether the same be original or on appeal (except appeals in criminal cases), where issue has been joined, a demand for trial by jury is made, there shall be paid to the clerk of the circuit court, as further costs of court, by the person making such demand, the sum of 5.00

"5. In addition to the costs of court hereinabove enumerated, the clerk of the circuit court shall charge and collect, for miscellaneous services performed by him, the following sums:

"(a) For filing any paper not in pending suit, action or other proceeding25

"(b) For issuing any subpoena25

"(c) All amounts necessary to cover actual costs or disbursements for printing, publishing or posting notice, service fees, mileage charges or other services actually performed.

"Deposit and payment of costs on appeal: All costs required to be paid upon the filing of any appeal or bill of exceptions shall be deposited with the magistrate or the clerk of the court from which the appeal is taken or in which the bill of exceptions is allowed, which deposit shall be transmitted to the clerk of the appellate court together with the record of such appeal or bill of exceptions. Such deposit shall be made at the time of filing the notice of appeal or appeal or upon the allowance of the bill of exceptions.

"In every appeal other than from a magistrate or a court of record, the required payment of costs for filing the appeal shall be made to the clerk of the court to which the appeal is taken.

"Cost charges exclusive: No other costs of court shall be charged in the supreme court or in the circuit courts in addition to those hereinbefore set forth in any suit, action or other proceeding, except as otherwise provided by law.

"Disbursements: All actual disbursements sworn to by an attorney, and deemed reasonable by the court, may be allowed in taxation of costs.

"High sheriff's or sheriff's fees:

"For serving summons or any other process (except a subpoena), for each person served therewith 1.00

"For serving subpoena, for each witness50

"For all necessary travel in making such service, per mile for every mile more than one10

"For duly returning as unserved after due and diligent search any process, when it has been found that the person to be served has left the Territory of Hawaii 1.00

"For serving any execution or other process for the collection of money, for every dollar collected up to \$500.0005

"And for every dollar over \$500.0002½

"All fees paid to any printer for publishing an advertisement of the sale of any property;

"For every bill of sale 1.00

"For executing and acknowledging a deed pursuant to a sale of real estate (to be paid by the grantee in such deed) 5.00

"For drawing any bond required by law 1.00

"For serving writ of possession or restitution, putting any person

entitled into the possession of premises, and removing a tenant pursuant to order of court 1.00

"Together with all necessary expenses incurred by the officer serving the writ, incident to the eviction.

"For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution;

"The fees for service of executions, attachments and collection of judgments, together with all other costs incurred, not included in the judgment, shall, in all the courts of the Territory, be collected in addition to the sum directed to be levied and collected in the writ." [C. C. 1859, pt. of s. 1280; am. imp. L. 1872, c. 29, ss. 1-3; am. L. 1882, c. 24, ss. 1, 2; am. L. 1884, c. 30, s. 1; am. imp. L. 1903, c. 38, s. 22; am. imp. L. 1903, c. 63, s. 1; am. L. 1929, c. 58, s. 1; R. L. 1935, s. 3791; am. L. 1937, c. 157, s. 2; am. L. 1939, c. 19, s. 1.]

[Sec. 3792 repealed by section 5 of this Act.]

Section 2. Section 3793, as amended, of said Revised Laws is hereby further amended by deleting that portion thereof commencing with the word "Schedule" immediately after the word and figures "Sec. 3793" and ending with the word "dollars" immediately before the paragraph beginning with the words "Fees and expenses of executors, administrators, trustees and guardians".

Section 3. Section 3794 of said Revised Laws is hereby amended to read as follows:

"Sec. 3794. Court costs, waiver of prepayment, reduction or remission of: The magistrates and judges of all the courts of the Territory shall have discretionary power to waive the prepayment of costs or to reduce or remit costs where, in special or extraordinary cases, the cost of any suit, action or proceeding may, to such magistrates or such judges, appear onerous." [L. 1923, c. 101, ss. 1-2; R. L. 1935, s. 3794; am. L. 1939, c. 19, s. 3.]

Section 4. Wherever provision is made in the Revised Laws of Hawaii 1935, as amended, for the filing of any bond or the deposit of cash in lieu of bond to cover costs on appeal to the circuit court or on writ of error, exceptions or appeal to the supreme court, such provision is hereby repealed.

Section 5. Section 3792 of said Revised Laws is hereby repealed.

Section 6. This Act shall take effect on June 1, 1939, but shall not apply to any suit, action or other proceeding which may be pending on such date.

(Approved March 29, 1939.) **S.B. 57, ACT 19.**

EVIDENCE: SALARIES AND EXPENSES OF COURTS.

SERIES C-94.—Act 40.]

SERIES C-95.—Act 231.]

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CHAPTER 109. EVIDENCE.

INSPECTION AND DISCOVERY.

[C-94] An Act to Amend Section 3862 of Chapter 109 of the Revised Laws of Hawaii 1935, Relating to Examination of Injured Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3862 of chapter 109 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Section 3862. **Examination of injured persons.** The defendant in any action or suit brought for damages on account of personal injury in any court shall have the right upon application to the court or to any judge of the court to require the person injured to undergo a physical examination by one or more competent physicians named by the defendant in his application. If the court or judge shall find that the injured person has any reasonable and valid objection to any physician named the court may appoint another competent physician in lieu of the physician to whom such objection has been made. Such examination is to be upon such reasonable terms as to time and place as the court or judge may by order direct. Any information which may be acquired by such physicians or any of them by making an examination under order of the court may be divulged without the consent of the person so examined." [L. 1933, c. 44, s. 1; R. L. 1935, s. 3862; am. L. 1939, c. 40, s. 1.]

Section 2. This Act shall take effect upon approval and shall apply to proceedings now pending as well as to proceedings hereafter instituted.

(Approved April 11, 1939.) **H.B. 212, Act 40.**

CHAPTER 112. SALARIES AND EXPENSES.

[C-95] An Act to Amend Section 3940 of the Revised Laws of Hawaii 1935, as Amended, Relating to Salaries and Expenses of Circuit Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3940 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

1. By amending the items therein under the headings "FIRST CIRCUIT COURT", "DIVISION OF DOMESTIC RELATIONS", and "SECOND CIRCUIT COURT", respectively, to read as follows:

"FIRST CIRCUIT COURT

	Per month	Per annum
Chief clerk, cashier, bookkeeper, statutory guardian and administrator	\$ 350.00	\$ 4,200.00
Archives clerk	275.00	3,300.00
First assistant chief clerk	250.00	3,000.00

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First assistant deputy chief clerk	250.00	3,000.00
Second assistant chief clerk	250.00	3,000.00
Third assistant chief clerk	200.00	2,400.00
Assistant cashier and bookkeeper	200.00	2,400.00
Clerk, typist and indexer	140.00	1,680.00
Stenographer, typist, etc.	140.00	1,680.00
Messenger and assistant clerk	135.00	1,620.00
Ten court room clerkseach	250.00	30,000.00
Five court reporterseach	350.00	21,000.00
Hawaiian interpreter and clerk	200.00	2,400.00
Filipino interpreter and clerk	200.00	2,400.00
Portuguese interpreter	50.00	600.00
Other interpreters (as required)		2,500.00
Law books		500.00
Circuit court expenses (jury fees and jury expenses)		17,500.00
Circuit court expenses (equipment and supplies) (Expenditures out of this item for equipment and supplies shall be made under existing city and county ordinances relating to the manner in which the same may be purchased.)		30,000.00
Chief probation officer—criminal division	225.00	2,700.00
First deputy probation officer	190.00	2,280.00
Second deputy probation officer	150.00	1,800.00
Clerk to probation officers and assistant clerk.....	175.00	2,100.00
Cars (upkeep of three cars for probation officers at \$50.00 per month per car)	150.00	1,800.00

DIVISION OF DOMESTIC RELATIONS

All of the officials named under this heading shall be appointed and may be removed by the judge of the court of domestic relations, City and County of Honolulu, and all of the appropriations under this heading shall be expended under the supervision of the judge of the court of domestic relations, City and County of Honolulu.

	Per month	Per annum
Chief probation officer	\$ 275.00	\$ 3,300.00
Assistant chief probation officer	200.00	2,400.00
Eight probation officerseach	190.00	18,240.00
Two assistant probation officerseach	170.00	4,080.00
Four truant officerseach	150.00	7,200.00
Recorder typist	175.00	2,100.00
Two assistant recorders and typists, juvenile divisioneach	100.00	2,400.00
Matron, Shelter Home	160.00	1,920.00
First assistant matron, Shelter Home	130.00	1,560.00
Second assistant matron, Shelter Home	110.00	1,320.00
Third assistant matron, Shelter Home	100.00	1,200.00
Day watchman (act as janitor and general utility man)	150.00	1,800.00
Night watchman	100.00	1,200.00
Maintenance, Shelter Home		9,000.00
Care of dependent and delinquent children and medical attention		15,000.00
Traveling expenses, automobile, four truant officers at \$50.00 each per month	200.00	2,400.00
Traveling expenses, automobile, twelve probation officers at \$50.00 each per month	600.00	7,200.00

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SECOND CIRCUIT COURT

	Per month	Per annum
Clerk	\$ 225.00	\$ 2,700.00
Deputy clerk	200.00	2,400.00
Assistant clerk	100.00	1,200.00
Court reporter and assistant clerk	225.00	2,700.00
Court expenses		10,000.00
Support juvenile court dependents		2,500.00
Probation officer (female)	225.00	2,700.00
Probation officer (male)	225.00	2,700.00
Expenses probation officers		1,200.00
Law books		1,250.00
Expenses, Detention Home	100.00	1,200.00
Assistant clerk and bailiff	150.00	1,800.00
Assistant probation officer and assistant clerk	130.00	1,560.00
Probation officer, Molokai	90.00	1,080.00
Automobile allowance for probation officer, Molokai	35.00	420.00
Matron, Detention Home	75.00	900.00
Janitor	75.00	900.00"

2. By amending the items thereof under the heading "THIRD CIRCUIT COURT", "FOURTH CIRCUIT COURT" and "FIFTH CIRCUIT COURT" to read, respectively, as follows:

"THIRD CIRCUIT COURT

	Per month	Per annum
Clerk	\$ 200.00	\$ 2,400.00
Deputy clerk, probation officer and bailiff	150.00	1,800.00
Court reporter	225.00	2,700.00
Support of juvenile court dependents		500.00
Court expenses		5,000.00
Law books		750.00
Probation officer for girls	100.00	1,200.00
Expenses, probation officer for girls		300.00
Expenses, probation officer for boys		300.00

FOURTH CIRCUIT COURT

	Per month	Per annum
Clerk, cashier and accountant	\$ 250.00	\$ 3,000.00
Clerk, assistant, courtroom and files	225.00	2,700.00
Clerk, assistant, office and stenographer	175.00	2,100.00
Court reporter	275.00	3,300.00
Bailiff and clerk	160.00	1,920.00
Janitor and messenger	125.00	1,500.00
Probation officer for boys	175.00	2,100.00
Probation officer for girls	150.00	1,800.00
Automobile expenses for probation officers		1,000.00
Court expenses		7,500.00
Support and expenses juvenile court wards		750.00
Transportation juvenile court wards		1,000.00
Law books and library upkeep		1,000.00
Clerk to probation officers	100.00	1,200.00

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[SERIES C-96.—ACT 61.]

FIFTH CIRCUIT COURT

	Per month	Per annum
Clerk	225.00	2,700.00
Assistant clerk	175.00	2,100.00
Bailiff	125.00	1,500.00
Court reporter, librarian and assistant clerk	225.00	2,700.00
Court Expenses		5,000.00
Support and care of juvenile court dependents and delinquents		2,400.00
Probation officer for boys	225.00	2,700.00
Probation officer for girls	200.00	2,400.00
Expenses, probation officer for boys	40.00	480.00
Expenses, probation officer for girls	40.00	480.00
Law books		400.00

The board of supervisors of the County of Kauai is hereby authorized and directed to provide suitable automobiles for the use of each probation officer."

Section 3. This Act shall take effect and be in force from and after July 1, 1939.

(Approved May 15, 1939.) **H.B. 202, Act 231.**

[C-96] An Act to Amend Section 3941 of the Revised Laws of Hawaii 1935, as Amended by Session Laws of 1937, Series C-94, Act 224, Relating to the District Magistrate and Clerk of Lanai District Court.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3941 of the Revised Laws of Hawaii 1935, as amended by Session Laws of 1937, Series C-94, Act 224, is hereby amended by amending the item under the subheading "County of Maui",

"District Magistrate, Lanai.....\$75.00.....\$900.00"
to read

"District Magistrate, Lanai.....\$150.00.....\$1800.00"
and by adding under said subheading "County of Maui" a new item to read as follows:

"Clerk and stenographer, Lanai
District Court\$100.00.....\$1200.00".

Section 2. This Act shall take effect on July 1, 1939.

(Approved April 19, 1939.) **H.B. 271, Act 61.**

Title XVI. CIVIL PROCEDURE.

CHAPTER 113. CIVIL PROCEDURE IN DISTRICT COURTS.

COSTS IN SMALL CAUSES.

[C-97] An Act to Amend Chapter 113 of the Revised Laws of Hawaii 1935, as Amended by Act 104 of the Session Laws of Hawaii 1937, Relating to the Civil Procedure in Small Causes in the District Court.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4012 of chapter 113 of the Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

"Sec. 4012. Costs in small causes. No costs in excess of the amount which could be recovered under the provisions of section 4012-E, shall be taxed or charged against the defendant in any action of assumpsit instituted for recovery of one hundred fifty dollars or less, excluding interest and costs, except actions for the recovery of wages or salary, unless in such action the plaintiff shall show to the satisfaction of the court that the defendant was guilty of fraud or misrepresentation in securing the credit at the time of the incurring of the obligation sued on, or is concealing his property or otherwise attempting to avoid the payment of his debts. Where any action is instituted in assumpsit upon more than one chose in action assigned to the plaintiff, for the purpose of this section, each such chose in action so assigned shall be considered separately." [L. 1933, c. 159, s. 1; am. L. 1933, c. 187, s. 1; R. L. 1935, s. 4012; am. L. 1937, c. 104, s. 1; am. L. 1939, c. 230, s. 1.]

Section 2. Section 4012-A of chapter 113 of the Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1937, is hereby further amended by deleting the figures "\$50.00" appearing in the second line of said section and inserting in lieu thereof the figures "\$150.00"; and by deleting the figures "\$100.00" appearing in the fourth line of said section and inserting in lieu thereof the figures "\$200.00"; and by deleting the "comma" appearing in line ten of said section, after the words "costs", and inserting the words "if he desires service by mail, or \$1.00 for each service if he desires service by a sheriff or deputy sheriff," and by adding after the word "notice" in line 14 of said section the following: ", if so requested."

[Sic]

Section 3. Section 4012-B of chapter 113 of the Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1937, is hereby further amended by changing the heading thereof to read: "Sec. 4012-B. Effect of notice; procedure; orders."; and by adding a new paragraph at the end of said section to read as follows:

"The district magistrate may, subject to the provisions of the statutes relating to garnishment, make such orders as to time of payment or otherwise, as may, by him, be deemed to be right and just, and in case no appeal is had from said judgment or in case said judgment is sustained on appeal, the district magistrate shall have continuing jurisdiction to make such new or changed orders as may to him seem just."

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[SERIES C-98.—ACT 20.]

Section 4. Section 4012-E of chapter 113 of the Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1937, is further amended by deleting the word "and" appearing in line two of said section after the word "fee" and inserting in lieu thereof a "comma", and after the words "mailing costs" in line two of said section, the words "and service fees"; and adding after the words "statutory costs" appearing in the eighth line of said section, the words "or statutory attorneys' commissions or attorneys' fees provided for by contract"; and adding in line seventeen of said section, after the word "sections", the following words: "All fees deposited by the plaintiff as service fees as provided in section 4012-A as amended, shall be paid to the sheriff or deputy sheriff making the service."

Section 5. Section 4012-D, chapter 113 of the Revised Laws of Hawaii 1935, as amended by Act 104 of the Session Laws of Hawaii 1937 is hereby repealed.

Section 6. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 165, ACT 230.**

REMEDIES OF LANDLORDS.

[C-98] An Act to Amend Section 4017 of the Revised Laws of Hawaii 1935, Relating to Tenancies of Real Property from Period to Period.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4017 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4017. **Tenancy from month to month, etc.; termination, extension.** Notwithstanding other provisions of law to the contrary, when real property is rented for an indefinite time with monthly or other periodic rent reserved, such holding shall be construed to be a tenancy from month to month, or from period to period on which rent is payable, and shall only be terminated by written notice to vacate or of intention to vacate given ten days or more preceding the end of any of said months or periods by either landlord or tenant to the other; provided, that when any tenant, without such notice having been given by either landlord or tenant to the other, retains possession of rented premises for any period of time after the expiration of such month or period, a valid and enforceable tenancy shall be thereby created for an additional month or period, as the case may be; provided, further, that when a tenant under such a tenancy fails to pay the rent reserved at the time agreed upon, the landlord may terminate such tenancy by giving to such tenant a written notice to vacate of not less than five days." [L. 1929, c. 93, s. 2; R. L. 1935, s. 4017; am. L. 1939, c. 20, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved March 29, 1939.) **S.B. 180, ACT 20.**

CHAPTER 114. CIVIL PROCEDURE, GENERAL.

CALENDAR.

[C-99] An Act to Amend Section 4106 of the Revised Laws of Hawaii 1935, as Amended by Act 117, (Series C-98) of the Session Laws of Hawaii 1937, Relating to the Trial of Cases in the Circuit Courts.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4106 of the Revised Laws of Hawaii 1935, as amended by Act 117 of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

"Sec. 4106. Cases tried in order unless postponed or advanced. Causes placed on the calendar shall be taken up and disposed of in the order in which they stand unless postponed by agreement of the parties or advanced by the court upon motion of either party. A cause remaining untried for a period of six years after it has been placed on the calendar, without action of the defendant to delay or postpone trial, shall stand dismissed with prejudice for want of prosecution without the necessity of entering any order of dismissal." [C. C. 1859, s. 1162; R. L. 1935, s. 4106; am. L. 1937, c. 117, s. 1; am. L. 1939, c. 145, s. 1.]

Section 2. The amendment by this Act of said section 4106 of said Revised Laws shall not be deemed to extend, or to otherwise affect the running of, the limitation period provided for by section 2 of said Act 117 as to causes pending on the effective date of said Act 117.

Section 3. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **S.B. 182, Act 145.**

CHAPTER 115. JUDGMENT,

NEW TRIAL, EXECUTION.

[C-100] An Act to Amend Section 4131, Revised Laws of Hawaii 1935, Relating to Motions for a New Trial.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4131, Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4131. Motion for new trial; stay. A motion for a new trial may be filed within ten days after verdict or decision and not later. The filing of such motion within the aforesaid time shall operate as a stay of the entry of judgment until the motion is decided; provided, that if judgment shall have been entered and execution shall have issued thereon prior to the filing of such motion, such execution may

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be stayed in the hands of the officer executing the same by the filing by the judgment debtor of a bond in an amount to be fixed by the presiding judge and conditioned for the payment of all costs and that the judgment debtor will not to the detriment of the judgment creditor remove or otherwise dispose of any property he may have liable to execution in case the judgment shall not be set aside or shall be affirmed upon any appeal, writ of error or exceptions." [C. C. 1859, s. 1156; am. L. 1905, c. 36, s. 2; am. L. 1907, c. 83, s. 2; R. L. 1935, s. 4131; am. L. 1939, c. 93, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1939.) **S.B. 263, Act 93.**

[C-101] An Act to Amend Section 4132, Chapter 115 of the Revised Laws of Hawaii 1935, Relating to District Court Judgment Liens.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4132 of chapter 115 of the Revised Laws of Hawaii 1935 is amended to read as follows:

"Sec. 4132. **District court judgment, lien when.** Any judgment rendered in a district court shall be a lien upon real property when a transcript thereof, certified by the magistrate of such court, shall have been docketed in the office of the clerk of the circuit court of the judicial circuit in which such district court is situated and a duly certified copy of the entry made in the judgment docket shall have been filed in the bureau of conveyances. No such lien shall continue beyond six (6) years after the date of said judgment. When a judgment which is a lien under this section is fully paid, the creditor shall, at the expense of the debtor, execute and acknowledge a release, signed by the creditor, or by his attorney of record in the action, and the release may be filed in said bureau. Every release or assignment of judgment shall contain a reference to the filing document number of the registry of the judgment. The filing fee for a judgment shall be one dollar and for each assignment and release of judgment twenty-five cents.

It shall be the duty of the registrar of conveyances to keep such judgments, or releases or assignments of same, in a separate file, and to keep an index, in which shall be listed in alphabetical order (the surname appearing first), the names of all defendants and plaintiffs named in such judgments with proper reference thereto. Any assignment or release of such judgment shall be noted in such index by reference to document number, in separate columns opposite the entry of the judgment." [L. 1892, c. 57, s. 24; am. L. 1909, c. 73, s. 1; am. L. 1929, c. 27, s. 1; R. L. 1935, s. 4132; am. L. 1939, c. 16, s. 1.]

Section 2. This Act shall take effect upon its approval but shall not apply to liens obtained prior thereto.

(Approved March 23, 1939.) **S.B. 178, Act 16.**

JUDGMENT LIENS.

EXAMINATION OF JUDGMENT DEBTOR.

SERIES C-102.—Act 15.]

SERIES C-103.—Act 24.]

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[C-102] An Act to Amend Section 4133, Chapter 115 of the Revised Laws of Hawaii 1935, Relating to Circuit Court Judgment Liens.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4133 of chapter 115 of the Revised Laws of Hawaii 1935 is amended to read as follows:

"Sec. 4133. Circuit court judgment, lien when. Any money judgment or decree of a circuit court or circuit judge at chambers shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where the same is entered, shall be filed in the bureau of conveyances. No such lien shall continue beyond ten years after the date of said judgment. When any such judgment shall be fully paid, the creditor or his attorney of record in the action shall, at the expense of the debtor, execute, acknowledge and deliver to the debtor a satisfaction thereof, which may be filed in the bureau. Every satisfaction or assignment of judgment shall contain a reference to the filing document number of the registry of the judgment. The filing fee for a judgment shall be one dollar, and for each assignment or satisfaction of judgment twenty-five cents.

It shall be the duty of the registrar of conveyances to keep judgments or releases or assignments of same in a separate file, and to keep an index, in which shall be listed in alphabetical order (the surnames appearing first), the names of all defendants and plaintiffs named in such judgments with proper reference thereto. Any assignment or satisfaction of such judgment shall be noted in the index by reference to document number, in separate columns opposite the entry of the judgment." [L. 1913, c. 32, s. 1; am. L. 1929, c. 27, s. 2; R. L. 1935, s. 4133; am. L. 1939, c. 15, s. 1.]

Section 2. This Act shall take effect upon approval but shall not apply to liens obtained prior thereto.

(Approved March 23, 1939.) **S.B. 177, Act 15.**

[C-103] An Act to Amend Section 4134, Revised Laws of Hawaii 1935, Relating to the Examination of Judgment Debtors and Other Persons After Judgment is Obtained.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4134 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4134. Examination of judgment debtors and others. It shall be lawful for any creditor who has obtained a judgment in any court, to apply to the court or a judge thereof for the issuance of rules, orders, summons or subpoenas, that the judgment debtor and any other person having any knowledge about the affairs or property of the judgment debtor, shall be examined orally before a judge of such court, or such other person as the court or judge, if of a court of record, shall appoint, as to any and what property the debtor owns or has an interest in and what debts are owing to him, and the court or judge may issue such rules, orders, summons or subpoenas, for the

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[SERIES C-104.—ACT 76.

examination of the judgment debtor and any other person having any knowledge about the affairs or property of the judgment debtor, and for the production of any books or documents. The examination shall be conducted in the same manner as in the case of an oral examination of witnesses under the law in that case made and provided. If the court shall find that the judgment debtor subsequent to the entry of judgment has wilfully concealed any of his property or any interest therein the court shall tax all costs of the examination against the defendant which shall be paid when the judgment is satisfied in whole or in part, as a cost of execution." [L. 1876, c. 35, s. 4; am. L. 1915, c. 10, s. 1; R. L. 1935, s. 4134; am. L. 1939, c. 24, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved March 30, 1939.) **H.B. 179, ACT 24.**

[C-104] An Act to Amend Section 4150 of the Revised Laws of Hawaii 1935, Relating to Levies on Corporation Stock.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4150 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4150. Levy on corporation stock. Any stock in a corporation owned by an execution defendant may be made the subject of levy of an execution issuing out of any court, by notifying the president, secretary, treasurer, or managing agent of the corporation of the fact that the stock of such defendant in the corporation has been levied upon, and leaving with such corporate officer a certified copy of the writ of execution. Service of such notice shall operate as a bar to the transfer of any such stock on the books of the corporation, and any corporation which shall permit any transfer of such stock, pending sale upon such execution, except as provided by statute, shall be liable for the penalty herein provided for wilful transfer of stock. Any stock levied upon may be sold after notice in the manner provided for advertisement and sale, contained in section 4146.

At any time after the issuance of execution and prior to the sale, upon motion or application of the plaintiff or the levying officer and upon due notice to the defendant or other person having possession of the certificate of stock, the court may summarily direct the defendant or such other person so having possession of the certificate to produce the certificate and thereupon the court may order the same to be delivered to the levying officer for the purpose of sale. After the sale, the levying officer shall deliver to the purchaser the certificate of stock, endorsed or assigned by him as the agent of the judgment debtor, which delivery and endorsement or assignment shall vest in the purchaser all of the right, title and interest of the execution debtor in the shares of stock. The purchaser shall be entitled to present to the corporation such certificate and to demand of the corporation the transfer of the stock on the books of the corporation and the issuance to him of a certificate showing that he is the owner of the stock. The foregoing is subject to the provisions that if it shall appear that the stock represented by such certificate has been pledged with and that the certificate therefor has been delivered to any pledgee as security

LEVY ON CORPORATION STOCK. EXEMPTIONS.

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for a debt or any other obligation, then such pledgee shall not be required to deliver such certificate to the levying officer, but if requested by the plaintiff so to do the levying officer shall, without delivery of the certificate, sell the stock subject to the payment or satisfaction of the debt or other obligation for which the same has been pledged as security, in which case the sale shall also be subject to the payment or satisfaction of any debt or obligation, junior to such pledge but prior in time to levy of execution, for which the stock has been assigned or hypothecated subject to said pledge, and in any such case the levying officer shall deliver to the purchaser of the stock a transfer thereof which shall vest in the purchaser all of the right, title and interest of the execution debtor in the stock. If it shall appear that any certificate of stock held by an execution debtor shall have been lost, or destroyed, the execution officer may likewise sell the stock without delivery of the certificate, and upon execution and delivery of a similar transfer, the transfer shall vest in the purchaser all of the right, title and interest of the execution debtor in the stock. If, by reason of the absence of the judgment debtor from the Territory, or for any other reason, the levying officer shall be unable to secure the stock certificate for purposes of transfer, he shall deliver to the purchaser of the stock a certificate to that effect, setting forth the reason for his inability to deliver the certificate, and also a transfer of the stock, which transfer shall vest in the purchaser all of the right, title and interest of the execution debtor in the stock, and upon presenting to the corporation the officer's certificate, together with the transfer of the stock, the purchaser shall be entitled to all of the rights respecting such stock as a holder of a lost or destroyed certificate." [L. 1927, c. 269, pt. of s. 1; R. L. 1935, s. 4150; am. L. 1939, c. 76, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 231, ACT 76.**

EXEMPTIONS

[C-105] An Act to Amend Section 4160 of the Revised Laws of Hawaii 1935 as Amended, Relating to Exemptions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4160 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

"Sec. 4160. Housekeeper and family. The following property, when owned by any person being a housekeeper, and having a family, shall be exempt from levy and sale on execution:

One piece of land not to exceed one acre, and the dwelling house and other buildings thereon situated; provided the value thereof shall not exceed two thousand seven hundred fifty dollars, which value shall be determined solely by the assessed value for taxation purposes. This exemption shall not apply to claims of mechanics and materialmen for labor performed and material furnished in the creation, alteration or

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repair of such buildings." [C. C. 1859, s. 1035; am. L. 1876, c. 1; am. L. 1917, c. 141, s. 1; R. L. 1935, s. 4160; am. L. 1937, c. 44, s. 1; am. L. 1939, c. 144, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **H.B. 74, Act 144.**

CHAPTER 121. GARNISHMENT.

COMMENCEMENT OF ACTION.

[C-106] An Act Relating to Garnishments and Amending Sections 4270, 4272 and 4300 of the Revised Laws of Hawaii 1935.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4270 of the Revised Laws of Hawaii 1935, is hereby amended by amending the first and second paragraphs thereof to read as follows:

"Sec. 4270. Garnishee process; 'garnishee fund'.

1. Before judgment. When any goods or effects of a debtor are concealed in the hands of an attorney, agent, factor or trustee, (in this chapter jointly and severally included in the term 'garnishee'), so that they cannot be found to be attached or levied upon, or when any debt is due from any person, (also included in the term 'garnishee'), to a debtor, or when any debtor is in receipt of any salary, stipend, commissions, wages, annuity or net income, or portion of net income under a trust, (in this chapter included under the term 'wages'), from any person, (also included under the term 'garnishee'), any creditor may bring his action against a debtor and, in his petition for process or by subsequent ex parte motion and amendments of the declaration at any time before judgment, may request the court to insert in the process a direction to the officer serving the same to leave a true and attested copy thereof with the garnishee or at his usual place of abode and to summon the garnishee to appear personally upon the day or term appointed in the process for hearing the action or at any other time appointed by the court and then and there on oath to answer all of the following inquiries, herein inclusively referred to as the 'disclosure'; (a) whether he has, or at the time the copy was served on him had, any of the goods or effects of the defendant in his hands and, if so, the nature, amount and value thereof; or, (b) whether he is, or at the time of service was, indebted to the defendant and, if so, the nature and amount of the debt; or (c) whether the defendant is, or at the time of service was, in receipt from him of any wages and, if so, the amount or rate thereof.

The summons and direction shall be signed and issued as is usual in other civil process. It shall be served according to such direction. From the time of leaving such copy, (a) all the goods and effects of the defendant then in the hands of the garnishee, (b) every debt then owing from the garnishee to defendant, and (c) ten per centum (10%) of the wages of the defendant where the amount thereof is not in ex-

cess of one hundred dollars (\$100.00) per month, and, if in excess of one hundred dollars (\$100.00), then ten per centum (10%) of the first one hundred dollars (\$100.00) and twenty per centum (20%) of any amount in excess of one hundred dollars (\$100.00) per month, whether then or thereafter to become owing, shall be secured in the hands of the garnishee to pay such judgment as the plaintiff shall recover in the action, such property or choses described under (a), (b) and (c) of this paragraph being included in this chapter under the term 'garnishee fund'. No part of such garnishee fund may be otherwise disposed of by the garnishee except as hereinafter in this chapter provided. Such notice shall be sufficient notice to the defendant to enable the plaintiff to bring his action to trial, unless the defendant be an inhabitant of the territory or has some time resided therein, in which case a like copy shall be served personally upon him or left at his last and usual place of abode; provided always that, if summons against the garnishee be obtained by ex parte motion and amendments at any time after the issuance of the original process, the defendant need not be served with process again."

Section 2. Section 4272 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec. 4272. Amount withheld.** If it shall appear in any cause wherein service has been made as provided by law, whether before or after judgment, upon any garnishee that the defendant is in receipt of any wages, from the garnishee, the court shall order and direct such garnishee not to pay to the defendant or permit or cause to be paid to him, more than ninety per centum (90%) of such wages where the amount thereof is not in excess of one hundred dollars (\$100.00) per month, or, where the amount of such wages is in excess of one hundred dollars (\$100.00), ninety per centum (90%) of the first one hundred dollars (\$100.00) and eighty per centum (80%) of the amount in excess of one hundred dollars (\$100.00) per month, which shall then be or shall thereafter become due, owing or payable to the defendant until the action against him shall have been finally determined and the final judgment obtained against him, if any, shall have been fully paid with legal interest thereon; provided, however, that no more of such wages shall be withheld from the defendant in advance of final judgment than shall be sufficient to meet the demand of the plaintiff, together with costs and legal interest." [L. 1907, c. 99, s. 1; am. L. 1921, c. 66, s. 1; am. L. 1925, c. 262, s. 3; am. L. 1927, c. 96, s. 3; am. L. 1933, c. 172, s. 1; R. L. 1935, s. 4272; am. L. 1939, c. 212, s. 2.]

Section 3. Section 4300 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec. 4300. Answer; amount sequestered.** It shall not be incumbent upon the garnishee to appear in any court or file any answer to such process, but the trial of the action may proceed, in all respects, as though the garnishee had not been included in the action. But from the time of the service of the copy on the garnishee, he shall withhold from the salary, stipend or wages, which shall then be or shall thereafter become due, owing or payable to the beneficiary named in the copy as follows:

(a) where the amount of the salary, stipend or wages is not in excess of one hundred dollars (\$100.00) per month, ten per centum (10%) thereof; and (b) where the amount of the salary, stipend or wages is in excess of one hundred dollars (\$100.00) per month, ten per

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centum (10%) of the first one hundred dollars (\$100.00) thereof and twenty per centum (20%) of the amount thereof in excess of one hundred dollars (\$100.00).

The garnishee shall continue to withhold such amount or amounts as aforesaid until the action against the beneficiary shall have been withdrawn or dismissed, or the judgment against him therein, if any, shall have been fully paid, with legal interest thereon; either of which events, as the case may be, shall be certified by the court in or before which the action has been pending. The amount or amounts so withheld shall be deemed sequestered in the treasury of the territory or the political or municipal subdivisions thereof, as the case may be, from the time of the service of the copy on the garnishee; provided, that no more shall be thus sequestered in advance of final judgment than shall be sufficient to meet the demand of the plaintiff in the action. It shall be unlawful for the garnishee to draw, sign or issue or permit or cause to be drawn, signed or issued any warrant payable to the order of such beneficiary or to any other person designated, by the beneficiary for the amount or amounts so sequestered." [L. 1890, c. 58, s. 8; am. L. 1903, c. 53, s. 4; am. L. 1921, c. 66, s. 1; am. L. 1933, c. 171, s. 1; R. L. 1935, s. 4300; am. L. 1939, c. 212, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **H.B. 171, Act 212.**

MISCELLANEOUS.

[C-107] An Act to Require Creditors Collecting Money Under Garnishment to Furnish Duplicate Receipts Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4284.] Section 1. [Receipts to be given by creditor.] Any creditor collecting money under garnishment process shall furnish duplicate receipts therefor to the garnishee, one of which receipts shall be delivered by the garnishee to the debtor.

[Sec. 4285.] Section 2. [Penalty for failure to furnish.] No portion of any salary or wages withheld or sequestered shall be paid to any creditor unless such duplicate receipts are delivered to the person in whose hands such funds are sequestered or withheld, and any creditor failing to furnish such duplicate receipts shall forfeit any amounts taken without the furnishing by him of such duplicate receipts, and he shall be personally liable, to the debtor, for such amounts.

Section 3. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 79, Act 166.**

CHAPTER 122. GARNISHMENT OF GOVERNMENT BENEFICIARIES.

[Sec. 4300. Answer; amount sequestered. Amended by Act 212, supra, page 195.]

CHAPTER 124. LIENS.

DENTISTS, DOCTORS, HOSPITALS, ON JUDGMENTS.

[C-108] An Act to give Dentists, Doctors, Physicians, Surgeons and Hospitals Liens on Judgments Recovered in Actions for Personal Injuries.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4355A.] Section 1. [Dentists, doctors, hospitals, liens for services in personal injury cases.] Whenever any person recovers judgment for damages for personal injuries to himself or to another, any hospital which has furnished room, board, supplies, facilities or accommodations to the injured person in connection with the care, or treatment of such injuries, and any dentist, doctor, physician or surgeon who has treated the injured person for such injuries, shall have a lien, subject to any common law lien, on such judgment or the proceeds thereof for the agreed or reasonable value of the services performed or the agreed or reasonable value of the room, board, supplies, facilities or accommodations so furnished, as the case may be, if, before satisfaction of judgment is docketed, such dentist, doctor, physician, surgeon or hospital files in the office of the chief clerk of the circuit court of the circuit in which judgment was recovered, or, in the case of a judgment recovered in a district court, in the office of the clerk of the district court of the district in which judgment was recovered, a notice setting forth the agreed or reasonable value of the services performed or the agreed or reasonable value of the room, board, supplies, facilities or accommodations furnished, as the case may be. In the event the available proceeds of the judgment are insufficient to satisfy in full the liens herein provided for, such proceeds shall, after all common law liens have been satisfied in full, be distributed pro rata between the lienors without any priority among them.

[Sec. 4355B.] Section 2. [Judgment debtor may pay money into court.] If the judgment debtor so elects he may pay the amount of the judgment to the chief clerk of the circuit or clerk of the district court in which such judgment is rendered and thereby be released from any further obligation to the judgment creditor and to the lienor. In the event the judgment debtor pays the amount of the judgment to such clerk the lien shall attach to the sum so paid.

[Sec. 4355C.] Section 3. [Enforcement of lien.] Such liens may be enforced upon the petition of the lienor to the circuit judge at chambers in the judicial circuit in which judgment was rendered, and jurisdiction is conferred upon the circuit judges at chambers to hear and determine all proceedings brought or instituted to enforce and

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[SERIES C-109.—ACT 34.

foreclose such liens, and the proceedings had before the circuit judge at chambers shall be conducted in the same manner and form as ordinary foreclosure proceedings.

Section 4. This Act shall take effect upon approval.

(Approved May 17, 1939.) **S.B. 238, ACT 251.**

MECHANICS AND MATERIALMEN.

[C-109] An Act to Amend Section 4366, Revised Laws of Hawaii 1935, as Amended by Act 150, Session Laws of Hawaii 1935, Relating to Liens of Mechanics and Materialmen.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4366 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4366. Filing notice, contents, duration of lien. The lien provided in Section 4365 shall not attach unless a notice thereof shall be filed in writing in the office of the Clerk of the Circuit Court where the property is situated and a copy of the notice be served upon the owner of the property. The notice shall set forth the amount of the claim, the labor or material furnished, a description of the property sufficient to identify the same, and any other matter necessary to a clear understanding of the claim. If the claim has been assigned, the name of the assignor shall be stated. The notice shall be filed not later than forty-five days after the date of completion of the construction, repair, alteration of or addition to the building, structure, railroad or other undertaking against which it shall have been filed and in the event title to the land involved is registered in the Land Court, a duly certified copy of the notice must be filed with the Assistant Registrar of the Land Court within five days after the same is filed with the Clerk of the Circuit Court.

The lien shall continue for sixty days after the completion of the construction, repair, alteration of or addition to the building, structure, railroad or other undertaking against which it shall have been filed unless proceedings are commenced within said time to collect the amount due thereon by enforcing the same.

Where the amount involved in the furnishing of labor or material used in the construction, repair, alteration of or addition to any building, structure, railroad or other undertaking, exceeds the sum of one thousand dollars, the term 'date of completion' as used in this section shall be deemed to mean the time when the owner of the property or the contractor for said work shall complete publication of a notice that the construction, repair, alteration of or addition to the building, structure, railroad or other undertaking involved has been completed and shall file a copy of such notice in the office of the Clerk of the Circuit Court where the property involved is situated; provided, however, that notice of completion may not be published by the contractor until after the issuance of a final certificate of the architect or engineer of said work (provided same are duly licensed under the laws of the Territory of Hawaii) stating that the work provided for in the

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SERIES C-109.—ACT 34.]

SERIES C-110.—ACT 9.]

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contract has been completed and is accepted by said architect or engineer under the terms and conditions thereof; and provided further that where notice of completion is published by the contractor, such notice shall not be published until after the contractor shall have made written demand upon the owner to publish a notice of completion and the owner shall have failed to publish such notice within five days from the date of such demand. Such notice shall be published twice, seven days apart, in a newspaper of general circulation printed and published in the County or City and County in which the property involved is situated. The term 'owner' as used in this section and as used in this sub-title means the owner of land or any interest therein who enters into a contract for the improvement of such land and who may be the owner in fee of the land or of a lesser estate therein, the lessee for a term of years therein, the person having any right, title or interest in the real property which may be sold under legal process, or a vendee in possession under a contract for the purchase of the real property, or any such right, title or interest therein. If the land involved is held in joint or common ownership or as an estate by the entireties, the giving to one of the owners of a notice of lien in accordance with this section shall be deemed the giving of such notice to all of such owners." [L. 1888, c. 21, s. 2; am. L. 1909, c. 97, s. 1; R. L. 1935, s. 4366; am. L. 1935, c. 150, s. 1; am. L. 1939, c. 34, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 3, 1939.) **H.B. 164, ACT 34.**

CHAPTER 125. QUIETING TITLE AT LAW.

[C-110] An Act To Amend Chapter 125 of the Revised Laws of Hawaii 1935, by Adding Thereto a New Section to Be Known as Section 4394, Relating to Quieting Title at Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 125 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new section to be called section 4394, and to read as follows:

"Sec. 4394. **Cross-complaint.** A cross-complaint may be filed in any action to quiet title and affirmative relief against all parties served or appearing granted thereon as fully and effectually as upon an original complaint."

Section 2. This Act shall take effect upon its approval.

(Approved March 17, 1939.) **H.B. 45, ACT 9.**

Title XVII. DOMESTIC RELATIONS.

CHAPTER 128. ANNULMENT, DIVORCE AND SEPARATION.

PART 2. DIVORCE.

[C-111] An Act To Amend Section 4463 of the Revised Laws of Hawaii 1935, Relating to Service and Enforcement of Alimony in Divorce.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4463 of the Revised Laws of Hawaii 1935, is hereby amended by substituting for the word "sixty" in line 14 thereof, the word "thirty".

Section 2. This Act shall take effect upon its approval, provided that all proceedings for annulment, divorce or separation pending on said effective date, shall be governed by the provisions of said section 4463 of the Revised Laws of Hawaii 1935, as the same existed prior to its amendment by this Act.

(Approved April 29, 1939.) **H.B. 424, Act 132.**

CHAPTER 130. CHILDREN.

ADOPTION.

[C-112] An Act to Amend Section 4525 of the Revised Laws of Hawaii 1935, Relating to Adoption.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4525 of the Revised Laws of Hawaii 1935 is hereby amended by substituting for the "period" at the end thereof a "semi-colon", and adding the following:

"provided, however, that before making any such order the judge in every case may, in his discretion, notify the board of public welfare of the Territory or its agent, of the pendency of such petition for adoption, and allow a reasonable time for said board to make such investigation as it may deem proper as to the fitness of the petitioner or petitioners to adopt the child, and as to whether the best interests of the child will be subserved by such adoption; said board shall make a report to such judge within the time so required and shall have authority to appear by its agent or counsel and to oppose or support such petition as in the board's opinion the interests of the child shall require; if said report is adverse to said petitioner or petitioners, the court shall thereupon give notice of the same to the petitioner or petitioners and afford them a reasonable opportunity to meet any proof which may be offered by said board in support of said adverse report."

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **S.B. 274, Act 135.**

INDUSTRIAL SCHOOLS.

SERIES C-113.—Act 133.]

SERIES C-114.—Act 193.]

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CHAPTER 132. INDUSTRIAL AND REFORMATORY SCHOOLS.

[Sec. 4570, amended, Secs. 4571-4573, repealed Secs. 4574, 4576-4578, 4580, 4582-4585, 4587-4592, 4595-4598, 4600-4602, amended by Act 203, infra, pages 329 to 330.]

COMMITMENT, ETC.

[C-113] An Act to Amend Section 4585 of the Revised Laws of Hawaii 1935, Relating to Commitments of Children to the Industrial and Reformatory Schools.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4585 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“**Sec. 4585. Commitments directed to board.** All commitments to industrial and reformatory schools shall be directed to the board or its authorized agents in the respective districts, but the juvenile probation officer or any other person, other than a police officer or sheriff, designated by the committing court or judge, shall be charged by such commitments with the execution of all orders for the custody and safe-keeping of the children committed to the industrial and reformatory schools, until delivered over to the principal of the school to which such children shall have been committed, and all expenses attending the conveyance of such children to their place of destination shall be defrayed from the funds available for such purposes which are under the control of the committing district magistrate, circuit court or circuit judge.” [L. 1870, c. 41, s. 15; am. L. 1915, c. 81, s. 6; R. L. 1935, s. 4585; am. L. 1939, c. 133, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **S.B. 364, Act 133.**

CHAPTER 133A. JUVENILE CRIME PREVENTION BUREAUS.

[C-114] An Act Establishing a Juvenile Crime Prevention Bureau of the Police Departments of the Several Counties.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4622.] Section 1. [**Juvenile crime prevention bureaus.**] Any chief of police or sheriff is hereby authorized to establish and maintain, as a subdivision of the police department under his jurisdiction, a juvenile crime prevention bureau, to be maintained and conducted as hereinafter provided.

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[SERIES C-114.—ACT 193.

[SERIES C-115.—ACT 122.

[Sec. 4623.] Section 2. [Duties and powers; reports.] It shall be the duty of the bureau hereby authorized to be established to direct its attention specifically to the suppression, prevention and investigation of crimes committed by minors over the age of twelve and under the age of eighteen, and any police officer shall have the power and authority to take and detain any such minor at suitable places for questioning and investigation, and upon a conclusion of such investigation, if it shall appear that any such minor under suspicion has committed a crime, then such minor shall be forthwith transferred to the control and custody of a proper officer of the juvenile court having jurisdiction for such further proceedings as may in each case be proper, and a written report of the findings of said police officer shall be transmitted to the officer to whose custody said minor is committed.

[Sec. 4624.] Section 3. [No limitations on juvenile courts.] Nothing in this Act contained shall be construed to divest juvenile courts of any of their powers, but shall specifically grant to the police departments of the several counties the power to take, detain, question, investigate and report on juveniles suspected of crime.

[Sec. 4625.] Section 4. [Rules of court.] The judges of juvenile courts shall make such rules and set up such standards of investigation and questioning as they consider necessary to guide the police in the handling of cases involving juveniles.

Section 5. This Act shall take effect upon its approval.

(Approved May 8, 1939.) **H.B. 309, ACT 193.**

CHAPTER 134. MARRIAGE; MARRIED WOMEN; NAMES.

[C-115] An Act to Amend Section 4630 of the Revised Laws of Hawaii 1935, As Amended, Relating to Marriage and Married Women.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4630 of the Revised Laws of Hawaii 1935, as amended, is further amended by changing the period in the next to the last line of said section to a semi-colon and by inserting between such semi-colon and the word "The" in said line, the following:

"provided, however, that with the written approval of the circuit judge having jurisdiction over juvenile cases in the circuit within which she shall reside, it shall be lawful for a female under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject, however to the provisions of section 4631, Revised Laws of Hawaii 1935."

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1939.) **H.B. 356, ACT 122.**

MARRIED WOMEN: PROPERTY, CONTRACTS, SUITS.

[C-116] An Act to Amend Section 4645 of the Revised Laws of Hawaii 1935, Relating to Contracts of Married Women.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4645 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4645. Contracts. A married woman may make contracts, oral and written, sealed and unsealed, in the same manner as if she were sole, except that she shall not contract with her husband; provided, however, that any deed or assignment executed by either husband or wife to or in favor of the other, and any agreement executed by husband and wife settling their respective rights in property owned by them or either of them when such agreement is made in contemplation of divorce or judicial separation, shall be valid to the same extent as between other persons." [L. 1888, c. 11, s. 2; am. L. 1931, c. 146, s. 1; R. L. 1935, s. 4645; am. L. 1939, c. 17, s. 1.]

Section 2. This Act shall take effect upon approval and shall apply to all deeds, assignments and property settlement agreements heretofore or hereafter executed.

(Approved March 28, 1939.) **S.B. 176, Act 17.**

**CHAPTER 137. PARTITION OF
REAL ESTATE.**

[Sec. 4746. Powers of Court. Amended by Act 242, supra, page 167.]

Title XVIII. EQUITY AND PROBATE.

CHAPTER 139. PROBATE: JURISDICTION AND PROCEDURE.

EXECUTORS AND ADMINISTRATORS.

[C-117] An Act to Amend Chapter 139 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to Be Known as Section 4780-B, Relating to the Continuance of the Business of a Decedent.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 139 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding, after section 4780-A thereof, a new section to be numbered section 4780-B, to read as follows:

"Sec. 4780-B. Continuance of the business of a decedent.

(1) The judge having jurisdiction of the estate may, upon the application of the personal representative, or of any creditor of the decedent or of any heir, legatee or devisee, authorize the personal representative, or appoint a trustee, to continue any business of the decedent, for such period and with such powers as the judge may deem advisable. The term 'business' as used herein shall include any business or occupation, mercantile, manufacturing, agricultural or otherwise, except a profession, in which the decedent was engaged at the time of his death, either alone or in partnership with others.

(2) The judge having jurisdiction of the estate may, upon the application of the personal representative, or of any creditor of the decedent, or of any heir, legatee or devisee, authorize the personal representative, or appoint a trustee, to organize, or join with others in the organization of a corporation to carry on the business of the decedent on such terms as the court may deem advisable, and to contribute all or part of the property of the estate which was invested in the business at the time of the death of the decedent as the capital to such corporation and accept stock in the corporation in lieu thereof, such stock to be held upon the same terms as the property of the estate.

(3) No order shall be entered pursuant to paragraphs (1) and (2) of this section if the provisions of the will of the testator shall expressly provide to the contrary, except upon the application of the personal representative or of a creditor and unless the judge shall believe that the carrying on of a business of the decedent is advisable for the protection of the interests of the creditors.

(4) Upon application by the personal representative or by any creditor or any heir, legatee or devisee, the judge having jurisdiction of the estate may order the personal representative or trustee to discontinue and wind up the business, and make such orders as to the business or the conduct thereof as the court may deem advisable.

(5) Any order pursuant to this section may be made on an ex parte hearing or upon such notice as the judge may determine.

(6) Claims arising from the continuance of a business of the decedent under authority pursuant to this section shall be considered expenses of administration, but shall be satisfied only out of the assets of the business."

Section 2. This Act shall take effect upon its approval.

(Approved May 4, 1939.) **S.B. 352, ACT 168.**

UNADMINISTERED SMALL ESTATES.

[C-118] An Act To Amend Section 4798 of the Revised Laws of Hawaii 1935, Relating to the Administration of Small Estates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4798 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4798. Clerk of circuit court to administer. Whenever by reason of the death of any person domiciled or residing in the Territory, testate or intestate, there shall be money or funds due and payable to the estate of such person or other property belonging to such estate of a total value not exceeding one thousand dollars, and an executor or administrator of such estate has not been appointed, the clerk of the circuit court of the circuit in which such person was residing or domiciled at the time of his death may, upon his own petition or the petition of any person interested, be appointed administrator of such estate, and as such administrator he shall collect and receive such money, funds or other property of such estate and administer the same. All clerks are prohibited from acting as administrator of any estate where the value of the same is in excess of one thousand dollars, except where he may be interested as an heir, legatee or devisee. But this prohibition shall not prohibit the clerk from proceeding with the administration of any estate in excess of one thousand dollars where such excess develops subsequent to his appointment as administrator, provided such excess does not exceed five hundred dollars. No fees shall be allowed the clerk." [L. 1917, c. 91, pt. of s. 1; am. L. 1919, c. 18, s. 1; am. L. 1923, c. 92, s. 1; am. L. 1933, c. 93, ss. 1, 6; R. L. 1935, s. 4798; am. L. 1939, c. 87, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved April 22, 1939.) **S.B. 152, ACT 87.**

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[SERIES C-119.—Act 177.

[SERIES C-120.—Act 33.

[C-119] An Act Requiring Police Officers, Including Coroners, Called to Investigate Deaths of Persons Leaving No Known Major Relatives in the Territory to Take Immediate Charge of the Decedent's Personal Effects and Deliver Them to the Clerk of the Circuit Court, and Prescribing the Duties of Such Clerk in Connection Therewith.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4805.] Section 1. [Estates of persons leaving no known relatives.] It shall be the duty of every police officer, including coroners, who are called to investigate the death of any person leaving no known major relatives in the Territory, to take immediate charge of such decedent's personal effects and forthwith to deliver them to the clerk of the circuit court of the circuit in which such decedent died.

If after ten days no person shall appear, competent to initiate appropriate administration or probate proceedings, the clerk shall administer the estate pursuant to the provisions of chapter 139 relative to small estates, provided, that if such decedent's estate be of a value exceeding one thousand dollars, such clerk shall notify the judge of such circuit having charge of the probate calendar, and shall petition for the appointment of an appropriate administrator of such estate other than such clerk. In the meantime such clerk shall have authority to take such steps as may be appropriate to preserve and conserve the real and personal property of such decedent. All expenses in connection with the taking possession, care and conservation of such property and with such proceedings shall be proper charges against the estate of such decedent. The county attorney of each county shall advise, assist and represent as far as necessary any of such officers in the performance of any act or the institution or prosecution of any proceeding required by this Act.

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1939.) S.B. 356, Act 177.

CHAPTER 141. DOWER AND CURTESY.

IN WHAT PROPERTY.

[C-120] An Act to Amend Sections 4830, 4831, 4839 and 4845 of the Revised Laws of Hawaii 1935, Relating to Dower and Curtesy.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4830 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4830. In real and personal property. Every woman shall be endowed of one-third part of all the lands owned by her husband at any time during marriage, in fee simple, or in freehold, unless she is lawfully barred thereof. She shall also be entitled, by way of dower, to an absolute property in the one-third part of all his remaining property owned by him at the date of his death, after the payment

of all his just debts." [C. C. 1859, s. 1299; R. L. 1935, s. 4830; am. L. 1939, c. 33, s. 1.]

Section 2. Section 4831 of said Revised Laws is hereby amended to read as follows:

"Sec. 4831. Election in case of exchanged lands. If a husband seized of lands in fee simple, or in freehold, shall exchange them for other such lands, his widow shall not have dower to both, but shall make her election to be endowed of the lands given, or of those taken in exchange, within six months after the death of her husband. If such election be not made, she shall take her dower of the lands received in exchange." [C. C. 1859, s. 1300; R. L. 1935, s. 4831; am. L. 1939, c. 33, s. 2.]

Section 3. Section 4839 of said Revised Laws is hereby amended to read as follows:

"Sec. 4839. Barred by deed. A woman may bar her right of dower, in any land conveyed by her husband, by joining with him in the deed conveying the same, and therein releasing her claim to dower, or by a separate deed releasing the same, made at the time of the conveyance by her husband, or subsequently; or she may delegate to an attorney in fact other than her husband, the power to execute such release, either by general or special power of attorney, and her execution and acknowledgment of the power of attorney may be in the same manner as if she were sole; or by agreement made in contemplation of divorce or judicial separation as provided by section 4645 as amended.

"No release of dower duly executed by the attorney in fact of any married woman prior to April 18, 1898, shall be held to be invalid or inoperative merely by reason of its not having been executed by such married woman in person." [C. C. 1859, s. 1308; am. L. 1898, c. 13, ss. 1-2; R. L. 1935, s. 4839; am. L. 1939, c. 33, s. 3.]

Section 4. Section 4845 of said Revised Laws is hereby amended to read as follows:

"Sec. 4845. Curtesy; election between curtesy and will. In case the wife shall die first and intestate, then except as in this section provided, her property shall immediately descend to her heirs, but shall be in all cases, whether she die testate or intestate, subject to a life interest in the husband in one-third of the wife's lands owned by her in fee simple or in freehold at the date of her death. The husband shall also, whether the wife die testate or intestate, be entitled, by way of curtesy, to an absolute property in the one-third part of all the wife's remaining property owned by her at the date of her death, after the payment of all her just debts. During the life of the wife the husband shall have no curtesy right inchoate or otherwise in the wife's property. If any provisions be made for the widower in the will of his wife, he shall be subject to the same requirements with respect to election between his curtesy and the provisions of the will, or taking under both, as is a widow in similar circumstances under the provisions of sections 4843 and 4844." [L. 1888, c. 11, s. 7; am. L. 1933, c. 68, s. 1; R. L. 1935, s. 4845; am. L. 1939, c. 33, s. 4.]

Section 5. This Act shall take effect upon approval.

(Approved April 1, 1939.) S.B. 183, ACT 33.

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[SERIES C-121.—ACT 119.

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[SERIES C-122.—ACT 100.

CHAPTER 142. GUARDIANS AND WARDS.

[C-121] An Act to Amend Chapter 142 of the Revised Laws of Hawaii 1935, Relating to Guardians and Wards.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 142 of the Revised Laws of Hawaii 1935 is hereby amended by amending section 4854 to read as follows:

"Sec. 4854. Small estates; clerk of court to act when. Whenever so requested by a parent, relative or next friend of a minor or insane person whose estate is of a value of less than one thousand dollars, the court may appoint the clerk of the court of that circuit as guardian of such minor or insane person, who shall serve in such capacity, with the full powers of and under like obligations as other guardians appointed under this chapter, except that he shall not be required to give any additional bond, nor shall he be entitled to any commission or compensation except for expenses necessarily and actually incurred, nor shall he or the minor or insane person or the estate of such minor or insane person be liable for any court costs arising out of such guardianship, except the actual cost of any advertising found necessary; provided, further, that the right of such clerk to act as such guardian shall not be affected by reason of any increase of the estate to an amount in excess of one thousand dollars as the result of any accumulations of income accruing from the original principal of the estate or by the increase in value of the principal; and provided, further, that if the estate shall reach in value the sum of two thousand dollars a guardian shall then be appointed under the preceding sections of this chapter." [L. 1927, c. 168, s. 1; R. L. 1935, s. 4854; am. L. 1939, c. 119, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1939.) **S.B. 165, ACT 119.**

GUARDIANS OF INSANE PERSONS AND SPENDTHRIFTS

[C-122] An Act to Amend Section 4859 of the Revised Laws of Hawaii 1935, Relating to the Appointment of Guardian of Insane Person.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4859 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4859. Notice, hearing and appointment of guardian of insane person. When the relations or friends of any insane person shall apply to any of the judges hereinbefore mentioned to have a guardian appointed for such person, the judge shall cause notice to be given to the supposed insane person of the time and place appointed for hearing the case, not less than fourteen days before the time so appointed. The judge shall also cause notice to be given to the husband, wife, parent, or any child or children of the supposed insane person, if any there be residing within the jurisdiction of the court. In case

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SERIES C-122.—ACT 100.]

SERIES C-123.—ACT 108.]

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no such person can be found the judge may cause such notice to be given to the attorney general, and it shall be the duty of the attorney general, upon receiving such notice, to appear in person, or by any of his deputies, and protect the interest of the supposed insane person. If after a full hearing it shall appear to the judge that the person in question is insane, the judge shall appoint a guardian of his person or estate or both, with the powers and duties hereinafter specified." [C. C. 1859, s. 1350; R. L. 1935, s. 4859; am. L. 1939, c. 100, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1939.) **S.B. 257, ACT 100.**

Title XIX. **LAND COURT:**
REGISTRATION OF CONVEYANCES;
NOTARIES, ETC.

**CHAPTER 144. LAND COURT
AND REGISTRATION.**

CERTIFICATE OF TITLE.

[Sec. 5044. Substitution, one certificate for several, several for one; subdivisions, maps. Amended by Act 242, supra, page 167.]

TRANSFER BY DESCENT AND DEVISE.

[C-123] An Act Amending Sections 5089 and 5091 of the Revised Laws of Hawaii 1935, Relating to Transfer of Land Court Property by Descent and Devise.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5089 of the Revised Laws of Hawaii 1935 is hereby amended by deleting therefrom the first three paragraphs thereof and adding in lieu thereof the following:

"**Sec. 5089. Registration upon transfer by descent and devise.** When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto may file with the assistant registrar of the Land Court the duplicate certificate issued to the testator, a correct statement of the full names of the devisees, the residence and post office address of each and their marital status, a certified copy of such will, a certified copy of the order of the circuit judge admitting it to probate, and a certified copy of the order or decree of the circuit judge closing the probate proceedings, or a certified copy of an order of such judge terminating the executor's right to take possession and control of such registered land, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the testator, and issue a new duplicate certificate or certificates to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not

having devised the same, the persons entitled thereto by law may file with such assistant registrar the duplicate certificate issued to the intestate, a correct statement of the full names of the heirs, the residence and post office address of each, and their marital status, a certified copy of the order or decree of the circuit judge in equity determining the heirs, or a certified copy of an order of such judge in administration proceedings terminating the administrator's right to take possession and control of such registered land and determining the heirs, and thereupon the assistant registrar shall cancel the duplicate certificate issued to the intestate, and issue a new duplicate certificate or certificates to the heir or heirs entitled thereto."

Section 2. Section 5091 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 5091. Purchaser acquiring title through executor may have the same registered. If any executor, or any administrator with the will annexed, is authorized by the terms of any will to grant, bargain, sell, convey, mortgage or otherwise deal with registered land, he may do so in the same manner as if the land were registered in his name as executor or administrator: provided, however, that before any instrument executed by such executor or such administrator, pursuant to such authority, shall be filed with the assistant registrar of the Land Court, there shall be first filed with such assistant registrar a certified copy of such will, a certified copy of the order of the circuit judge admitting the same to probate, and a certified copy of the letters testamentary, or letters of administration with the will annexed. Any person who acquires title or any interest in registered land through or by virtue of the execution of the power, may have the title or interest registered, by application to and order of the court made after notice to all persons in interest to be given by the clerk by registered mail or otherwise as the court may direct." [L. 1921, c. 214, s. 2; R. L. 1935, s. 5091; am. L. 1939, c. 108, s. 2.]

Section 3. This Act shall take effect on approval.

(Approved April 26, 1939.) **S.B. 184, ACT 108.**

CHAPTER 145. BUREAU OF AND REGISTRATION OF CONVEYANCES

PLANS AND SURVEYS.

[Sec. 5120. Filing of; data on plans; monuments. Amended by Act 242, supra, page 168.]

[Sec. 5127. Report of Violations. Amended by Act 242, supra, page 168.]

CHAPTER 148A. MORTGAGES.**LIEN ON REVOLVING STOCK; AFTER ACQUIRED PROPERTY.**

[C-124] An Act Relating to the Lien of Mortgages and to Authorize Mortgages of Revolving Stock In Trade and After-acquired Property and to Cover Future Advances and Imposing Limitations and Conditions Thereon.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5195.] Section 1. **Lien of mortgages; priority.** Every transfer of an interest in property, real or personal, made as security for the performance of another act or subject to defeasance upon the payment of an obligation, whether such transfer shall be made in trust or otherwise, is to be deemed a mortgage and shall create a lien only as security for the obligation and shall not be deemed to pass title. It may secure the repayment of past debt, a debt incurred at the time the mortgage is executed or a debt incurred for advances which may be made by the mortgagee subsequent to the execution of the mortgage even though the mortgagee is under no contractual duty to make such advances. In any case where the mortgage contains no such contractual duty, the mortgage lien, to the extent that it secures future advances, shall be superior to any mortgage or any other lien other than liens for taxes and for public improvements duly recorded subsequent to the time at which such advance has been made, but in the event the mortgagee is under a contractual duty contained in the mortgage to make future advances and the maximum amount of such future advances is stated in the mortgage, the lien therefor shall be superior to that of any subsequently recorded mortgage or other lien, except liens for taxes and for public improvements, even though such subsequently recorded mortgage or other lien, except liens for taxes and for public improvements, is recorded prior to the date upon which any such advance or advances have been made. Subject to the limitations contained in this Act, if the mortgage so provides:

It may embrace all property in possession or to which the mortgagor has the right of possession at the time of the execution of the mortgage; it may cover crops of all sorts even though the same have not been planted at the time the mortgage is executed; it may cover animals and their offspring even though the offspring are unborn at the time the mortgage is executed; it may cover accounts receivable, goods, stock in trade, after-acquired property or things in bulk but changing in identity; and the lien of the mortgage may attach to additions, improvements, and purchases or substitutions made to supply the place of any property disposed of and to all other after-acquired property referred to in said mortgage when the mortgagor acquires an interest therein to the extent of such interest, but subject to existing liens and the lien of a purchase money mortgage given by the mortgagor of any of said after-acquired property. Any such mortgage, except to the extent provided in this Act, shall be enforceable against the mortgagor, creditors of the mortgagor, and against subsequent purchasers, mortgagees, assignees, and transferees, who take without valuable consideration or with notice, actual or constructive, even though the mortgaged property may have been moved to a location different from that occupied by it at the time of the execution of the mortgage.

[Sec. 5195 A.] Section 2. **Registered land.** Nothing in this Act

shall be deemed to modify or amend the provisions of chapter 144, Revised Laws of Hawaii 1935, relating to land court and registration.

[Sec. 5195 B.] Section 3. **After-acquired land.** The mortgage shall operate only as a contract between the parties with respect to, and shall not create a lien upon real property acquired in any manner by the mortgagor subsequent to the execution of the mortgage and not described therein unless and until the mortgagor or the mortgagee at the time of or subsequent to such acquisition shall execute and duly record in the bureau of conveyances an instrument or affidavit containing a reference to the book and page number where such mortgage is recorded and also a reference to such real property sufficient to identify and locate the real property, which reference may be made by describing the deed or other instrument of conveyance by which the real property was acquired or by describing the land by metes and bounds.

[Sec. 5195C.] Section 4. **Interests in recorded mortgages and leases.** The mortgage shall operate only as a contract between the parties with respect to, and shall not create a lien upon, any recorded mortgage or lease, unless and until a specific reference to the mortgage or lease in the manner contemplated by section 5132 shall be contained in an instrument or affidavit executed by the mortgagor or mortgagee and duly recorded in the bureau of conveyances at Honolulu.

[Sec. 5195 D.] Section 5. **Registered motor vehicles.** The mortgage shall operate only as a contract between the parties with respect to, and shall not create a lien upon, any motor vehicle registered or required to be registered under the provisions of chapter 83 of said Revised Laws, unless and until the transfer of the mortgagor's interest shall be registered under the procedure provided in section 2671 of said Revised Laws, as the same now is or may hereafter be amended.

[Sec. 5195E.] Section 6. **Choses in action.** The mortgage shall operate only as a contract between the parties with respect to, and shall not be a lien upon, any choses in action or intangible property represented by a certificate, promissory note, security, bond, instrument or writing of any kind or nature, unless and until the fact of the existence of such mortgage and the book and page on which such mortgage is recorded shall be duly noted in writing on such certificate, promissory note, security, bond, instrument or writing, or unless the possession of such certificate, promissory note, security, bond, instrument or writing shall have been transferred to and be held by the mortgagee.

[Sec. 5195F.] Section 7. **Tangible personal property.** The lien of any such mortgage upon tangible personal property, possession of which is held by the mortgagor for the purpose of sale to the public in the ordinary course of the mortgagor's business, shall be extinguished as to any tangible property sold in the ordinary course of such business by or under the direction of the mortgagor to any purchaser for valuable consideration.

[Sec. 5195G.] Section 8. **Four-year renewal required as to tangible personal property.** Every mortgage recorded in the bureau of conveyances, except a deed of trust executed by a corporation to secure an issue of bonds or notes maturing more than four years after the execution of the deed of trust, purporting to cover tangible personal property shall, as to such tangible personal property, cease to be valid, as against the creditors of the person making the same, or

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subsequent purchasers or mortgagees in good faith for a valuable consideration, after the expiration of four years from the recording of the same; provided, that the validity of the mortgage and the lien may in each case be extended with the same effect as the original mortgage and the lien for successive additional periods of four years from said recording date, or the last recording date of the affidavit hereinafter next mentioned, by recording in said bureau before the expiration of said period an affidavit sworn to by the mortgagee (or one of them, if more than one) or his agent, setting forth the date, and book and page number of the recording, of such mortgage, stating that the same is still subsisting, and setting forth the amount remaining unpaid and secured by such mortgage, or briefly the requirements remaining to be fulfilled (if other than the payment of money), under and secured by such mortgage.

[Sec. 5195H.] Section 9. **Effective date.** This Act shall take effect upon approval and shall apply to all mortgages heretofore as well as hereafter made. This Act shall be deemed retroactive insofar as it may validate any mortgage or the lien of any mortgage executed prior to the effective date of this Act, but shall not be deemed to apply in such manner as to invalidate any such mortgage or the lien thereof, for a period of one year after said effective date, which but for this Act would be valid; provided that any mortgage executed prior to said effective date which requires renewal under section 8 of this Act, shall be deemed to have been recorded on said effective date for the purposes of said section 8.

[Sec. 5195I.] Section 10. **Validity.** If any portion of this Act, or the application thereof to any person or circumstance, shall be held unconstitutional or invalid the remainder of this Act, or the application of such portion to other persons or circumstances shall not be affected. The legislature hereby declares that it would approve this Act and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

(Approved May 17, 1939.) **S.B. 66, Act 255.**

POSSESSION OF MORTGAGED PROPERTY.

[C-125] An Act Establishing the Rights of Mortgagors of Real and Personal Property to the use or Possession Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5195J.] Section 1. [Use and possession of mortgaged property.] In the absence of an agreement to the contrary, the mortgagor of real or tangible personal property under a duly recorded mortgage, shall be entitled to the use or possession thereof until default.

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **H.B. 282, Act 131.**

Title XXI. CRIMINAL PROCEDURE.

CHAPTER 160. CRIMINAL PROCEDURE: CIRCUIT COURTS.

INDETERMINATE SENTENCES.

[Sec. 5536. Indeterminate sentences; maximum. Amended by Act 203, infra, page 334.]

Title XXII. CRIMINAL OFFENSES.

CHAPTER 184. ESCAPE, RESCUE, NEGLECT TO SERVE PROCESS, ETC.

[C-126] An Act to Prohibit the Harboring and Concealing of Persons Escaping from Custody, and to Provide a Penalty for the Violation Thereof, and to add a new Section to Chapter 184 of the Revised Laws of Hawaii 1935, to be Known as Section 5852-A.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section is hereby added to chapter 184 of the Revised Laws of Hawaii 1935, to be known as section 5852-A and to read as follows:

“Sec. 5852-A. **Harboring and concealing, penalty.** Every person who shall knowingly conceal or harbor for the purpose of concealment any person who has escaped or is escaping from custody after having been lawfully made a prisoner or having been lawfully detained or held in custody, on conviction or charge of any offense, shall be guilty of a misdemeanor. Any person convicted of said offense shall be punished by imprisonment for not more than one year or by fine, not exceeding \$500.00, or both.”

Section 2. This Act shall take effect upon its approval.

(Approved March 14, 1939.) **S.B. 77, Act 8.**

**CHAPTER 186. FALSE
PERSONATION.**

[C-127] An Act to Amend Section 5884 of the Revised Laws of Hawaii 1935, Relating to Badges.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5884 of the Revised Laws of Hawaii 1935, is hereby amended by inserting after the word "Republic" appearing in the third line, the following words:

"or the badge adopted by the National Encampment of the Veterans of Foreign Wars of the United States, or any arm band or other insignia like or similar to that worn by police or special police, or junior police or other governmental officer."

Section 2. Amend the heading of said section 5884 of the Revised Laws of Hawaii 1935, to read as follows:

"Sec. 5884. By G. A. R. or other badge, or insignia; punishment."

Section 3. This Act shall take effect upon its approval.

(Approved April 25, 1939.) **S.B. 224, Act 98.**

**CHAPTER 207. SABBATH
VIOLATIONS.**

[C-128] An Act to Amend Section 6211 of the Revised Laws of Hawaii 1935, Relating to Labor on Sunday.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6211 of the Revised Laws of Hawaii 1935, is hereby amended by adding at the end thereof the following:

"Provided further, that it shall be lawful for bowling alleys in the Territory of Hawaii to operate on Sundays between the hours of noon and 11:30 p. m., provided that such bowling alleys are located not less than three hundred feet from any church; and provided further, that the last proviso shall not apply to bowling alleys which are in operation on the date upon which this Act takes effect."

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **H.B. 63, Act 85.**

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[SERIES C-130.—ACT 14.]

[C-129] An Act to Amend Section 6213 of the Revised Laws of Hawaii 1935, Relating to Amusements on Sunday.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6213 of the Revised Laws of Hawaii 1935, is hereby amended by inserting after the comma in line four thereof the following:

"roller skating rinks after the hour of 1:00 o'clock p. m.,".

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1939.) **H.B. 395, ACT 201.**

CHAPTER 212.

TRAFFIC
VIOLATIONS.

LIGHTS.

[C-130] An Act Amending Paragraph 6 of Section 6289 of the Revised Laws of Hawaii 1935, Relating to Tail Lights on Vehicles.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 6 of section 6289 of the Revised Laws of Hawaii 1935, is hereby amended by deleting the period at the end thereof and inserting a comma in lieu thereof, and the following words:

"except that the Board of Supervisors of any county or city and county may provide by ordinance that no tail lights need be displayed upon any such vehicle when stopped or parked in accordance with local parking regulations upon a highway where there is sufficient light to reveal any person or object for such specified distance upon such highway as such Board may deem safe."

Section 2. This Act shall take effect upon its approval.

(Approved March 22, 1939.) **H.B. 149, ACT 14.**

Title XXIII.

PRISONS.

CHAPTER 217. PRISONS, JAILS,
ADMINISTRATION; PRISONERS.

[Sec. 6399, added, Secs. 6405A, 6405B, 6411, 6413-6417, 6418, 6420, 6421, 6425, 6426, 6429, 6432, 6434-6436B, 6454, 6456, 6459, 6461-6463, amended by Act 203, infra, pages 330 to 332.]

Title XXIV. CORPORATIONS—PARTNERSHIPS.

CHAPTER 218. BANKS: HAWAII BANK ACT OF 1931.

DEFINITIONS.

[D-131] An Act to Amend Section 6504 of the Revised Laws of Hawaii 1935, Relating to Applicability of the Hawaii Bank Act of 1931.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first sentence of section 6504, Revised Laws of Hawaii 1935, as amended by Act 159 of the Session Laws of Hawaii 1935, is hereby amended by deleting "and 6584 inclusive" appearing in the third line of said section, as amended, and inserting in lieu thereof "and sections 6584 to 6594, inclusive, and section 657A."

Section 2. This Act shall take effect upon approval.

(Approved May 2, 1939.) **H.B. 210, ACT 152.**

GENERAL PROVISIONS.

[D-132] An Act to Amend Section 6587 of the Revised Laws of Hawaii 1935, Relating to Authorized Signatures Upon Checks.

Section 1. Section 6587 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6587. **Authorized signatures: checks drawn by agents or other fiduciaries.** Whenever any person, firm, association or corporation, being the owner of any deposit account subject to check in any bank, shall have authorized any person as agent or officer of such person, firm, association or corporation to draw checks on the bank against such account, the bank, in the absence of written notice to the contrary, shall be justified in presuming that any check drawn by the agent or officer in the form or manner authorized by the principal, including checks drawn to personal order or for the account and benefit of the agent or officer, was drawn for a purpose authorized by the principal and within the scope of the authority conferred upon the agent or officer.

"Where a check or other order drawn by a trustee, executor, guardian or other fiduciary against a deposit account of such fiduciary is paid to or for the benefit or account of, or credited to the personal account of such fiduciary, neither the paying of such check or order nor the depositing of the proceeds thereof to such personal account by the drawee bank shall be sufficient in the absence of actual knowledge on the part of such drawee bank to charge such drawee bank

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with notice of any infirmity or defect in the right or title of the payee or with the duty of inquiry." [L. 1931, c. 177, s. 86; R. L. 1935, s. 6587; am. L. 1939, c. 32, s. 1.]

Section 2. This Act shall take effect upon approval.

(Approved April 1, 1939.) **S.B. 153, Act 32.**

CHAPTER 219. BUILDING AND LOAN ASSOCIATIONS.

[D-133] An Act to Amend Section 6651 of the Revised Laws of Hawaii 1935, as Amended by Act 197 of the Session Laws of Hawaii 1935, and Sections 6659 and 6664 of Said Revised Laws, Relating to Building and Loan Associations, and to Add to Chapter 219 of Said Revised Laws, a New Section, to be Numbered Section 6653-A, Relating to Notaries Public Connected With Such Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6651 of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935, is hereby amended, by amending the seventh and eighth paragraphs of said section to read as follows:

"'Withdrawal value' shall mean the value of a share or investment certificate, determined by adding to what has been paid in (excluding the membership fee), such proportion of the earnings thereon as the by-laws may provide, or as may be fixed by the board of directors, less the withdrawal fee, if any, and other fees and charges, if any, allowed by and charged under this chapter.

'Guaranty shares' shall mean stock provided for by the by-laws to be set apart and sold to create a permanent or guaranty capital, the proceeds of which shares, when they are once so set apart, sold and issued, shall thereafter remain a permanent and guaranty capital, subject to all of the conditions and liabilities attaching to the paid-in capital stock of other classes of corporations. It shall protect and guarantee all other stockholders and creditors against any loss, and shall at all times be of such an amount that, when taken together with and added to the free surplus and undivided profits of the association, the total amount shall be not less than five per centum of the aggregate book value of all outstanding investment certificates and stock, other than permanent stock of the association. If the association is insured by the Federal Savings and Loan Insurance Corporation or any similar federal organization, the reserves required by said corporation or similar organization to be maintained by the association shall, so long as they are so maintained, be included in computing said five per centum. Should earnings, including free surplus and undivided profits, be insufficient to fulfill the guarantees given by the association, both principal and dividends of the guaranty stock shall be used for that purpose to any extent required."

Section 2. Chapter 219 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section entitled and reading as follows:

“Sec. 6653-A. Notary connected with association; authority to act. It shall be lawful for any notary public, although a shareholder, member, director, officer or employee of a building and loan association, to take the acknowledgement of any party to any written instrument executed to or by the association, or to administer an oath to any shareholder, member, director, officer or employee or agent of the association, or to protest for non-acceptance or non-payment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by the association; and in general, to do and perform any act pertaining to the powers and duties of a notary public; provided, however, that it shall be unlawful for any such notary public to take the oath or acknowledgement of any party to an instrument, or to protest any negotiable instrument, where such notary is individually a party to the instrument.”

[**Sec. 6654-D**, added by Act 142, infra, page 220.]

[**Sec. 6654-E**, added by Act 138, infra, page 222.]

[**Secs. 6656, 6657, 6658**, amended by Act 140, infra, pages 223 to 224.]

Section 3. Section 6659 of the Revised Laws of Hawaii 1935, is hereby amended by amending the first paragraph of said section to read as follows:

“Sec. 6659. Restrictions. No stock shall be issued upon which a different or stipulated rate of dividends or interest shall be guaranteed or paid before or regardless of the amount of dividends distributed to other classes of shares, except as authorized by this chapter. Nothing in this Act shall be construed to prohibit or limit the right of an association to pay a different or higher rate of dividend on guaranty stock than on other classes of stock or shares of the association, provided, however, that the rate of dividends so apportioned and credited during any year on guaranty stock shall not exceed two per centum more than the average rate of dividends apportioned and credited to withdrawable stock entitled to dividends.”

[**Sec. 6661. Reserves.** Amended by Act 141, infra, page 224.]

[**Sec. 6663-A. Income Tax.** Added by Act 77, infra, page 225.]

Section 4. Section 6664 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 6664. Fees, fines. Membership fees may be charged but must be stated and paid as such separately from any dues. No such fee shall exceed two per centum of the maturity value of the stock or investment certificates subscribed for, and no portion thereof may be a realization of the association.

No amount paid in on any share or investment certificate shall be used to pay any fee, commission or other form of compensation to any person for obtaining any subscription therefor.

A transfer fee may be charged on each share or investment certificate, as the by-laws shall provide, not to exceed one per centum of the book value.

A withdrawal fee of not more than two per centum of the maturity value may be charged, on the voluntary withdrawal prior to maturity, of any share or investment certificate; provided, however, that the membership fee and the withdrawal fee provided for in this section shall not together exceed two per centum of the maturity value of any share or investment certificate. The payment of a lower rate of dividend or earnings on shares or investment certificates, on which withdrawal is made prior to maturity, than at maturity, shall not be construed as a withdrawal fee, and nothing in this Act shall be construed to prohibit the payment of a lower rate of dividend or earnings on shares of investment certificates on which withdrawal is made prior to maturity than on shares or investment certificates carried to maturity, nor shall the retention of a portion of credited dividends or earnings on withdrawals prior to maturity be construed as a withdrawal fee or charge, but the payment of such lower rate of dividends or earnings or the retention of a portion of credited dividends or earnings on such withdrawals prior to maturity, as the by-laws, applications, pass books or certificates may provide, are hereby expressly permitted, provided that on shares and investment certificates hereafter issued, such retention of earnings shall be limited to not to exceed one-fourth of credited dividends or earnings on shares and certificates on which withdrawal is made prior to three years from date of issuance.

[Sic] Fines may be assessed upon installments not paid when due, but no fine shall exceed ten per centum of the amount due, nor shall any fine be assessed more than once against the same delinquent amount, nor beyond a period of six months after the date when the amount became delinquent, except that the limitation of six months shall not apply in the case of stock to which dividends are credited irrespective of whether or not installments due are paid." [L. 1927, c. 208, s. 14; am. L. 1931, c. 283; s. 5; R. L. 1935, s. 6664; am. L. 1939, c. 174, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved May 5, 1939.) **H.B. 204, Act 174.**

[D-134] An Act to Amend Chapter 219 of the Revised Laws of Hawaii 1935, by Adding Thereto a New Section, to be Numbered 6654-D, Providing for the Conversion of a Federal Savings and Loan Association Into a Domestic Savings and Loan Association, Prescribing the Procedure Therefor, Defining the Results Thereof and Providing for the Indebtedness of Such Association, and Providing for the Adoption and Use of a Corporate Name by Such Converted Association and by Domestic and Foreign Building and Loan Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 219 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section, to be numbered 6654-D, and to read as follows:

"Sec. 6654-D. [Conversion of federal savings and loan association into domestic company; procedure.] Any savings and loan association organized and existing under and by virtue of the laws of the United

States of America and authorized to do and doing business in this territory, may convert itself into a savings and loan association organized under the laws of this territory in the following manner and with the following results:

(1) At any regular meeting of the shareholders and members of any such association or at any special meeting thereof in either case called to consider such action and held in accordance with the laws governing such associations, such shareholders and members by an affirmative vote of a majority of such shareholders and members present in person or represented by proxy may by resolution declare their intention to convert said association into a savings and loan association organized under the laws of this territory and shall in that event also proceed to the election of a board of directors for said territorial association and either then adopt or authorize said board of directors to adopt articles of incorporation and a set of by-laws for the converted association, such authorization to cover adoption of either or both such articles and by-laws.

(2) A copy of the minutes of such meeting of the shareholders and members verified by the affidavit of the president or vice-president and the secretary of the meeting shall within ten days after said meeting be filed with the Federal Home Loan Bank Board at Washington, D. C., and with the treasurer of the territory. This verified copy of the minutes of such meeting when so filed shall be presumptive evidence of the due holding and of the action of such meeting.

(3) Within a reasonable time after the adoption of such resolution the association shall cause the articles of incorporation, certified to by the president and secretary of such association as having been regularly adopted pursuant to the provisions of this chapter by the shareholders and members at such meeting referred to in paragraph (1) hereof or by the board of directors, if authority to adopt the same is granted to such board of directors at such meeting of shareholders and members, to be filed with the territorial treasurer.

(4) Upon the filing of such articles of incorporation and the approval thereof by the territorial treasurer said association shall thereafter be deemed to all intents and purposes a territorial organized savings and loan association or building and loan association, provided that such conversion shall be effective only upon the filing in the office of the territorial treasurer a certificate from the Federal Savings and Loan Insurance Corporation to the effect either that said federal association was at the time of conversion not insured by it or that being so insured the conversion and the basis upon which it is being carried out is acceptable to said Federal Savings and Loan Insurance Corporation."

Section 2. All property of the federal association, including its right, title and interest in and to all property of every kind and nature, shall immediately by operation of law and without any further act or deed be continued to be vested in said association under its new name and style as a domestic savings and loan or building and loan association and as such it shall have, hold and enjoy the same in its own right as fully and to the same extent as the same were possessed, held, or enjoyed by it as a Federal Savings and Loan Association, and said territorial organized association shall continue to be responsible for all the obligations of said Federal Savings and Loan Association to the same extent as said association was responsible

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therefor as a federal association; such territorial organized association shall to all intents and purposes be a continuation of said Federal Savings and Loan Association under its new name and subject to this chapter and to all other applicable territorial laws, and such revision of its corporate structure may be undertaken and accomplished as may be considered necessary for its operation as a territorial organized savings and loan or building and loan association.

Section 3. Such converted savings and loan or building and loan association, as well as every domestic building and loan association created by the territory now or hereafter incorporated and every foreign association licensed to do business in the territory, shall have the right to operate as a savings and loan or building and loan association or company and to adopt or use as a part of its corporate name the words "savings and loan association" or "savings and loan company" or "building and loan association" or "building and loan company", and each such association shall have the right and authority to do a savings and loan or building and loan business, but not a banking business.

Section 4. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **H.B. 500, Act 142.**

[D-135] An Act to Amend Chapter 219 of the Revised Laws of Hawaii 1935, by Adding Thereto a New Section, Numbered 6654-E, Granting to Federal Savings and Loan Associations all Privileges and Immunities Accorded to Hawaii Building and Loan Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 219 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section to be numbered 6654-E, and to read as follows:

"Sec. 6654-E. Privileges and immunities of federal savings and loan associations. Every federal savings and loan association incorporated under the provisions of Home Owners' Loan Act of 1933, as now or hereafter amended, and the holders of shares or share accounts issued by any such association, respectively, shall have all the rights, powers and privileges, and shall be entitled to the same exemptions and immunities granted, respectively, to building and loan associations organized under the laws of this territory and to the holders of investment certificates, withdrawable shares or guaranty shares of such territorial associations."

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **H.B. 471, Act 138.**

[D-136] An Act to Amend Chapter 219 of the Revised Laws of Hawaii 1935, Pertaining to Building and Loan Associations, by Amending Sections 6656, 6657 and 6658 Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6656 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec 6656. Minors' shares.** Shares, share accounts or investment certificates of any association operating in this territory, including a federal savings and loan association, may be issued in the name of a minor in the same manner as to an adult person, and all relations between the minor and the association shall be on the same basis as though the minor were an adult; provided that no fines or penalties shall be charged against such shares, share accounts or investment certificates for any time within the minority of the owner thereof, except in the case of shares, share accounts or investment certificates to which dividends or interest are credited irrespective of whether or not installments due are paid; and the receipt or paid order of such minor shall be a valid acquittance of the rights of all concerned." [L. 1927, c. 208, s. 6; R. L. 1935, s. 6656; am. L. 1939, c. 140, s. 1.]

Section 2. Section 6657 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec. 6657. Fiduciaries' accounts.** Shares, share accounts or investment certificates of any association, including a federal savings and loan association, may be purchased and held by any person as administrator, executor, guardian or as trustee or other fiduciary, in trust for a named beneficiary or beneficiaries. Any person holding shares or share accounts, as such fiduciary, shall have power to vote as a member as though the shares or share accounts were held absolutely, and any such fiduciary shall have power to make payments upon, and to withdraw or re-purchase in whole or in part, any such shares, share accounts or investment certificates. The withdrawal or re-purchase value of any such shares, share accounts or investment certificates, and dividends or interest thereon or other rights relating thereto, may be paid or delivered to such fiduciary, and the payment or delivery to any such fiduciary, or a receipt or acquittance signed by any such fiduciary to whom any such payment or any such delivery of rights is made, shall be a valid and sufficient release and discharge of any such association for the payment or delivery so made. Whenever a person holding shares, share accounts or investment certificates as trustee or other fiduciary, in trust for a named beneficiary or beneficiaries, dies, and no written notice of the revocation or termination of the trust relationship shall have been given to any such association, the withdrawal or re-purchase value of such shares, share accounts or investment certificates and dividends or interest thereon, or other rights relating thereto, may, at the option of the association, be paid or delivered, in whole or in part, to the named beneficiary or beneficiaries of such trust. The payment or delivery to any such beneficiary or beneficiaries, or a receipt or acquittance signed by any such beneficiary or beneficiaries for any such payment or delivery, shall be a valid and sufficient release and discharge of any such association for the payment or delivery so made." [L. 1927, c. 208, s. 7; R. L. 1935, s. 6657; am. L. 1939, c. 140, s. 2.]

Section 3. Section 6658 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

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"Sec. 6658. **Joint accounts.** Shares, share accounts or investment certificates may be issued to or in the name of two or more persons or the survivor or survivors; and, in the event of the death of any of them, the association shall be liable thereon only to the survivor or survivors, and, while any of them are living, payment to any of them shall discharge the liability to all. The joint ownership of shares or share accounts shall not confer the right to vote to any greater extent than if such shares or share accounts were held by an individual." [L. 1927, c. 208, s. 8; R. L. 1935, s. 6658; am. L. 1939, c. 140, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **H.B. 473, ACT 140.**

[D-137] An Act to Amend Section 6661 of the Revised Laws of Hawaii 1935, Relating to Reserves of a Building and Loan Association.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6661 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6661. **Reserves.** Each building and loan association shall close its books at the close of business on June 30 and December 31 of each year, herein termed the 'semi-annual closing dates'. On the semi-annual closing dates, after the payment of or provision for all expenses, each association shall, before the declaration of a dividend for the semi-annual period, transfer to a separate reserve account, which shall be set up and maintained for the sole purpose of absorbing losses, to be known as the 'General Reserve', an amount not less than five per centum nor more than twenty per centum of its net earnings, until the general reserve is equal to at least ten per centum of the aggregate book value of all outstanding withdrawable shares and investment certificates of the association. If, and whenever, the general reserve is not equal to at least ten per centum of the aggregate book value of all outstanding withdrawable shares and investment certificates, semi-annual credits as above provided shall again be made to it until it shall again be equal to at least ten per centum of the aggregate book value of all outstanding withdrawable shares and investment certificates. The board of directors may make additional transfers to other reserve accounts. If an association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, in lieu of the general reserve herein provided it shall maintain, by sufficient credits thereto on or before each semi-annual closing date, the reserve required by the Federal Savings and Loan Insurance Corporation. The board of directors of every association shall, during each semi-annual period on or before each semi-annual closing date, set up a special reserve for each different type of loss, which has been determined (but not realized) either by appraisal or otherwise and which is reasonably to be anticipated. In lieu of setting up such reserves, the board of directors may charge any such loss, which has been determined but not realized, to the reserve for losses. If interest receivable on loans is accrued, a 'Reserve

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SERIES D-137.—Act 141.]

SERIES D-138.—Act 77.]

SERIES D-139.—Act 137.]

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for Uncollected Interest' shall be maintained. Every association shall set up and maintain a reserve for taxes payable by the association equivalent to the amount of accrued taxes." [L. 1927, c. 208, s. 12; am. L. 1931, c. 283, s. 2; R. L. 1935, s. 6661; am. L. 1935, c. 197, s. 4; am. L. 1939, c. 141, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **H.B. 474, Act 141.**

[D-138] An Act to Amend Chapter 219 of the Revised Laws of Hawaii 1935, Relating to Building and Loan Associations, by Adding Thereto a new Section to be Numbered Section 6663-A, Relating to Computation under Chapter 65 of the Revised Laws of Hawaii 1935, of Net Income Tax of Building and Loan Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 219 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section entitled and reading as follows:

"Sec. 6663-A. **Income tax.** In computing under chapter 65 of the Revised Laws of Hawaii 1935, as amended, the taxable income of building and loan associations, in addition to the deductions from gross income provided by section 2034, there shall also be deducted (1) all assets and depreciation which the bank examiner may have required to be charged off in the taxable year; and (2) the return paid or credited on or apportioned to the withdrawable shares and investment certificates, but in no event exceeding six per centum (6%) per annum."

Section 2. This Act shall take effect as of January 1, 1935.

(Approved April 22, 1939.) **H.B. 203, Act 77.**

[D-139] An Act to Amend Section 6671 of the Revised Laws of Hawaii 1935, Relating to Building and Loan Associations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6671 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec. 6671. Inspection by treasurer; appointment of conservator or receiver.** (a) The treasurer of the territory shall have the right at any time, without previous notice, in person or by any person by him appointed, to examine into the business and affairs of every building and loan association, and shall have free access to all of its books, papers, records and securities, to ascertain the condition of the association in any respect and whether it is operating conformably with law. For such purpose he may summon and compel the attendance of any director, officer, agent or employee of the association, and examine them under oath.

(b) If the treasurer, as a result of such examination, or from any report made to him, shall find that any building and loan association is violating the provisions of its articles of association or by-laws or the laws of this territory or of the United States, or any lawful order of the treasurer, or is conducting its business in an unsafe manner, he may, by an order, direct discontinuance of such violation or unsafe practice, and conformance with all requirements of law. If any such association shall refuse or neglect to comply with such order within the time specified therein, or if it shall appear to the treasurer that any such association is in an unsafe condition or is conducting its business in an unsafe manner, or if he shall find that an impairment of capital exists to such an extent that it threatens loss to the members or investment certificate holders, or if any association refuses to submit its books, papers and accounts to the inspection of the treasurer or his representative, the treasurer may appoint a conservator to take charge of the association and manage its business until the treasurer shall permit the board of directors to resume management of the business or shall reorganize the association, or until a receiver shall be appointed by the treasurer to liquidate its affairs. Any conservator appointed by the treasurer shall have all the rights, powers and privileges possessed by the officers, board of directors and members of the association. The conservator shall not retain special counsel or other experts, incur any expenses other than normal operating expenses, or liquidate assets except in the ordinary course of operations. The directors and officers shall remain in office and the employees shall remain in their respective positions, but the conservator may remove any director, officer or employee provided the order of removal of a director or officer shall be approved in writing by the treasurer. While the association is in charge of a conservator, members and investment certificate holders of such association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator, in his discretion, may permit holders of withdrawable shares or investment certificates to withdraw such shares or investment certificates from the association as in the ordinary course of business, or under, and subject to, such rules and regulations as the treasurer may prescribe, and the conservator shall have power to accept payments on shares or investment certificates, but any such payments thereon received by the conservator may be segregated if the treasurer shall so order in writing, and if so ordered, such payments shall not be subject to offset, and shall not be used to liquidate any indebtedness of such association existing at the time the conservator was appointed for it, or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of any such association existing at the time such conservator was appointed. All expenses of the association during such conservatorship shall be paid by the association. The appointment of a conservator shall be evidenced by the treasurer issuing a certificate under the seal of his office delivered to the board of directors of the association, certifying that a conservator has been appointed pursuant to this Act. Within six months from the date upon which the conservator shall take charge of an association, the treasurer shall determine whether or not he shall restore the management of the association to the board of directors. Such determination shall be evidenced by the treasurer's certificate under the seal of his office, delivered to the board of directors of the association, reciting that the conservator forthwith is redelivering the management of the association to the board of directors of the association then in office. After the management of the association shall have been redelivered to the board of

directors of an association, the association shall henceforth be managed and operated as though no conservator had been appointed. At any time prior to the redelivery of the management to the board of directors, the treasurer shall determine whether such association shall be required to reorganize. Such determination shall be evidenced by the treasurer's certificate under the seal of his office, delivered to the association, reciting that unless the association reorganize under the laws of this territory within a period of ninety days from the date of such certificate, or within such further time as the treasurer shall approve, the treasurer will proceed to liquidate the association. If the association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, a signed and sealed copy of each certificate mentioned in this section shall be promptly sent by the treasurer by registered mail to the Federal Savings and Loan Insurance Corporation, Washington, D. C.

(c) If the treasurer determines not to permit the association to resume business or to reorganize within the periods above specified, the treasurer shall, upon the date of such determination, appoint a receiver for such association for the purpose of liquidation. The taking of possession by the receiver shall be evidenced by the treasurer issuing a certificate under the seal of his office, delivered to the home office of the association, certifying that a receiver has been appointed to take possession of its property, business and assets pursuant to this Act. A signed and sealed copy of such certificate shall be posted in a prominent place in the principal business entrance to the home office of the association simultaneously with the delivery of such certificate to the association. The posting of such certificate shall be notice to all directors, officers, employees, members, investment certificate holders, creditors, and the public generally that all dealings with the association shall thereafter be had through the receiver or his duly appointed agents so long as the receiver shall remain in the possession of the assets of the association. A signed and sealed copy of the certificate of the treasurer appointing a receiver of an association shall be recorded in the office of the registrar of conveyances. Upon such recordation of such order all of the property of the association, including its rights, titles and interests in and to all property of whatsoever kind, whether real, personal or mixed, and things in action and every right, privilege, interest and asset of any conceivable value, or benefit, then existing or pertaining to it, or which would inure to it, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed, become vested in and continue to be the property of the receiver of such association who shall have, hold and enjoy the same as receiver as fully and to the same extent as the same was possessed, held and enjoyed by the association of which he was appointed receiver. If the association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, a copy of such certificate and of any of the orders hereinafter provided for, issued by the treasurer, shall be promptly forwarded by the treasurer, by registered mail, to the Federal Savings and Loan Insurance Corporation, Washington, D. C. At any time prior to the completion of the liquidation of an association, the treasurer may, by written order, redeliver the property and assets of such association, or by such written order may reorganize the association, and upon the completion of such reorganization redeliver its property and assets to the association. A signed and sealed copy of such order shall be recorded in the same manner and with the inverse effect as the certificate of the

treasurer appointing a receiver, whereupon all of the property of the association shall become vested in it by operation of law.

(d) If the association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, the Federal Savings and Loan Insurance Corporation is empowered at its option to act as co-receiver with the receiver appointed by the treasurer, under paragraph (c) of this section, in the liquidation of the association, and the treasurer shall tender to the Federal Savings and Loan Insurance Corporation an appointment as such co-receiver. If the corporation accepts said appointment, it shall serve as co-receiver and shall equally have and possess all the rights, powers and privileges of the receiver appointed by the treasurer and shall be subject to all of the duties of such receiver, and in addition shall have all of the rights, powers and privileges conferred upon it by the laws of this territory or by federal statutes now or hereafter enacted, and may make loans on the security of, or may purchase at public or private sale, and bid for at any receiver's sale, and liquidate or sell, any part of the assets of the association of which it is the receiver, and, in the event of the purchase of any of such assets, it shall bid and pay therefor a fair and reasonable price. Whether or not such Federal Savings and Loan Insurance Corporation shall serve as such co-receiver of any such association, whenever it shall pay or make provision for payment of the liabilities of any such association in liquidation which are insured by it, it shall be subrogated, upon the surrender and transfer to it of any share, investment certificate or account insured by it to all rights of the holder with respect to such share, investment certificate or account, but such surrender and transfer of such share, investment certificate or account shall not affect any right which the transferor thereof may have in any portion of such share, investment certificate or account which is uninsured or any right to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association; provided, that the rights of the investors and creditors of such an association shall be determined in accordance with the applicable provisions of the laws of this territory." [L. 1927, c. 208, s. 20; R. L. 1935, s. 6671; am. L. 1939, c. 137, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **H.B. 470, ACT 137.**

CHAPTER 219A. EXAMINATION OF FEDERAL HOME LOAN BANK MEMBERS OR INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

[D-140] An Act to Amend the Revised Laws of Hawaii 1935, by Adding a New Chapter Thereto to be Numbered 219-A, Relating to Examination of Federal Home Loan Bank Members or Institutions Insured by the Federal Savings and Loan Insurance Corporation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Revised Laws of Hawaii 1935, are hereby amended by adding thereto a new chapter to be numbered 219-A, and to read as follows:

"CHAPTER 219-A. EXAMINATION OF FEDERAL HOME LOAN BANK MEMBERS OR INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

Sec. 6685. **Examination of Federal Home Loan Bank members or institutions insured by the Federal Savings and Loan Insurance Corporation.** Any regulatory or other public authority or officer of this territory required, authorized or permitted to examine any institution which is a member of a Federal Home Loan Bank or which is insured by the Federal Savings and Loan Insurance Corporation, may examine any such institution in conjunction with the Federal Home Loan Bank Board, a Federal Home Loan Bank or the Federal Savings and Loan Insurance Corporation. Any such regulatory or other public authority or officer may make available to any other regulatory or public authority or officer, or to the Federal Home Loan Bank Board, any Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation or Home Owners' Loan Corporation, any information furnished to or obtained by, and all or any part of any report of any examination of any such institution made by, any such regulatory or other public authority or officer."

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1939.) **H.B. 472, Act 139.**

CHAPTER 221. CORPORATIONS.

CREATION BY ARTICLES OF ASSOCIATION.

[D-141] An Act to Amend Sections 6710, 6711, 6714, 6715, 6716, 6717 and 6720 of the Revised Laws of Hawaii 1935, Relating to the Organization of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6710 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6710. Incorporation of corporations. A corporation for profit may be organized as provided in sections 6711, 6713, 6714, 6715 and 6716, for any purpose or purposes for which individuals may lawfully associate themselves, other than for the purpose of carrying on any profession, and other than for any purpose or purposes for which any corporation is now or may hereafter be required to be organized pursuant to the provisions of any other chapter. A non-profit corporation may be organized as provided in sections 6718 and 6722. The terms 'joint stock company' and 'joint stock companies', as used in other sections of this chapter, shall mean a corporation or corporations for profit." [L. 1890, c. 43, s. 1; am. L. 1896, c. 39, s. 1; R. L. 1935, s. 6710; am. L. 1939, c. 78, s. 1.]

Section 2. Section 6711 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6711. Articles of association. Any number of persons not less than five, a majority of whom are residents of the Territory, desiring to become incorporated as a corporation, shall sign articles of association and acknowledge the same before any officer authorized to take acknowledgments, which articles shall contain the following particulars:

First. The name of the corporation, which shall include as the last word thereof the word 'Limited' or the abbreviation 'Ltd.'

Second. The place of its principal office, which shall be in the Territory of Hawaii.

Third. The purposes and powers of the corporation.

Fourth. The amount of its authorized capital stock and, if the privilege of subsequent extension of the authorized capital stock is asked for, the limit of such extension.

Fifth. The names of the persons who are to act as the initial directors and officers of the corporation.

Sixth. Any other lawful provision which may be desired by the corporation, for the purpose of defining, limiting and regulating the powers of the corporation, the powers and duties of the board of directors and officers of the corporation, and the rights, powers, preferences, restrictions and qualifications of the stockholders or of any class or classes thereof, or otherwise relating to the corporation." [L. 1890, c. 43, s. 2; R. L. 1935, s. 6711; am. L. 1939, c. 78, s. 2.]

[Sec. 6713. Articles of association, charters, amendments, recorded where. Amended by Act 66, infra, page 233.]

Section 3. Section 6714 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“Sec. 6714. Affidavit. An affidavit sworn by the president, secretary and treasurer of the corporation as named in the articles of association shall be filed in the office of the treasurer at the time of filing the articles of association, which affidavit shall set forth the number of authorized shares of the proposed corporation, the par value of such shares as have par value, the names of the subscribers for shares, the number of shares subscribed for by each subscriber, the subscription price or prices for the shares subscribed for by each subscriber, the amount of the capital paid in by each subscriber, and the manner in which the same has been paid in (cash, services or property). When an object of the corporation is to acquire the assets and business of any existing enterprise in exchange for the issuance of shares of the capital stock of the corporation or when it is proposed that in excess of fifty percentum of the authorized shares of the corporation are to be issued for property and services or either, the affidavit shall also contain a summary description of the assets and business to be so acquired or of such property or services and a valuation of such assets, together with a copy of the instrument or instruments of transfer by which it is proposed that the corporation shall acquire such assets and business or property. In case the affidavit shall show that less than three-fourths of the authorized capital stock has been subscribed for, or shall show that less than ten percentum of the authorized capital stock has been paid in by the acquisition of cash or by the acquisition of property of a value equal to ten percentum of such authorized capital stock, then the corporation prior to its commencement of business in the Territory, shall file a supplemental affidavit showing that three-fourths of its authorized capital stock has been subscribed for, and showing also that ten per centum of its authorized capital stock has been so paid in, which affidavit shall also set forth the number of shares subscribed for by each subscriber, the subscription price or prices for the shares subscribed for by each subscriber, the amount of the capital paid in by each subscriber, and the manner in which the same has been paid in (cash, services or property).” [L. 1890, c. 43, s. 4; R. L. 1935, s. 6714; am. L. 1939, c. 78, s. 3.]

Section 4. Section 6715 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“Sec. 6715. Powers and liabilities. On the filing of the articles of association and the affidavit required to be filed concurrently therewith, the persons who have subscribed the articles of association, their associates, successors and assigns, shall thereafter be deemed to be and be a body corporate by the name and style provided in the articles of association; shall have succession and corporate existence for such term as shall be agreed upon, not to exceed fifty years; shall have all of the powers and be subject to all of the liabilities provided by law for corporations; and shall be subject to all general laws then in effect or thereafter enacted in regard to corporations.” [L. 1890, c. 43, s. 5; R. L. 1935, s. 6715; am. L. 1939, c. 78, s. 3.]

Section 5. Section 6716 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“Sec. 6716. Capital necessary to engage in business. No corporation for profit shall upon the incorporation thereof engage in business

in the Territory until three-fourths of its authorized capital stock shall have been subscribed for nor until ten percentum of its authorized capital stock shall have been paid in by the acquisition of cash or by the acquisition of property of a value equal to ten percentum of such authorized capital stock, nor until the affidavit or affidavits required by section 6714 shall have been filed. In case of any violation of this section by any corporation, the incorporators and the directors thereof at the time the corporation commences to engage in business shall in their individual and private capacities be jointly and severally liable to the corporation and the stockholders and creditors thereof, in the event of its bankruptcy or insolvency, or in the event of its dissolution, for any loss suffered by the corporation or its stockholders or creditors by reason of such violation." [L. 1890, c. 43, s. 6; R. L. 1935, s. 6716; am. L. 1939, c. 78, s. 5.]

Section 6. Section 6717 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 6717. Provisions applicable to corporations.** Sections 6718 and 6722 shall not apply to corporations for profit; and all other provisions of this chapter, not inapplicable and not inconsistent with the provisions of sections 6711, 6713, 6714, 6715 and 6716, shall apply to corporations for profit. Sections 6711, 6713, 6714, 6715 and 6716 shall not apply to non-profit corporations; and all other provisions of this chapter, not inapplicable and not inconsistent with the provisions of said sections 6718 and 6722, shall apply to non-profit corporations." [L. 1890, c. 43, s. 11; R. L. 1935, s. 6717; am. L. 1939, c. 78, s. 6.]

Section 7. Section 6720 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 6720. Monopolies and perpetual charters.** Nothing in this chapter shall be construed to authorize the creation of a monopoly, by the terms of any articles of association or charter or otherwise, without the consent of the legislature, nor to authorize without such consent any perpetual charter for any purposes except those specified in section 6718." [C. C. 1859, s. 1444; R. L. 1935, s. 6720; am. L. 1939, c. 78, s. 7.]

Section 8. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 91, ACT 78.**

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[D-142] An Act to Amend Section 6713 of the Revised Laws of Hawaii 1935, Relating to the Recording of Articles of Association and Charters of Corporations and Amendments Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6713 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6713. Articles of association, charters, amendments, recorded where. The articles of association, charters and any certificates of amendment thereof shall be recorded in the office of the treasurer of the Territory in a book to be kept for the purpose, which shall at all times during business hours be open to the inspection of the public without charge." [L. 1890, c. 43, s. 3; R. L. 1935, s. 6713; am. L. 1939, c. 66, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 20, 1939.) **S.B. 128, Act 66.**

[D-143] An Act to Amend Section 6719 of the Revised Laws of Hawaii 1935, Relating to the Extensions and Renewals of Articles of Association and Charters.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6719 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6719. Extensions and renewals. The treasurer shall at any time not more than fifteen years prior to the expiration of any articles of association or charter of any corporation extend the duration of the same, and shall at any time not more than two years after the expiration of any articles of association or charter renew the same, in each case on application to him for that purpose, upon the filing in his office of a verified certificate signed by the president and secretary of the corporation or by the presiding officer and secretary of the meeting at which the vote was taken, showing that the proposed extension or renewal has been approved by the vote of the holders of not less than two-thirds of all its issued and outstanding shares of stock, voting without regard to class, at a meeting duly called and held for the purpose, or, in the case of a non-stock corporation, by the vote of not less than two-thirds of the members present at a duly called meeting thereof; provided, however, that such extension or renewal, together with the unexpired term if any of a stock corporation, shall not exceed a total of fifty years from and after the date of the extension or renewal; and provided, further, that no extension of the charter of a non-profit corporation shall become effective until the same shall be allowed by the treasurer by and with the consent of the governor.

"All extensions or renewals of articles of association and charters granted prior to the effective date of this Act are ratified and con-

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[SERIES D-144.—ACT 31.

firmed." [C. C. 1859, s. 1443; am. L. 1923, c. 239, ss. 1, 2; am. L. 1927, c. 110, s. 1; am. L. 1929, c. 46, s. 1; R. L. 1935, s. 6719; am. L. 1939, c. 30, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 1, 1939.) **S.B. 126, ACT 30.**

AMENDMENT OF CHARTERS AND ARTICLES.

[D-144] An Act to Amend Section 6723 of the Revised Laws of Hawaii 1935, Relating to Amendments to Articles of Association and Charters of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6723 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 6723. Amendments.** Subject to the provisos hereinbelow set forth in this section, the articles of association or charter of any corporation may be amended by the vote of the holders of not less than two-thirds of all of its issued and outstanding shares of stock, voting without regard to class, or such larger vote thereof as may be required by the articles of association or charter, at a meeting duly called and held for the purpose, or, in case of a non-stock corporation, by the vote of not less than two-thirds of the members present at a meeting duly called and held for the purpose, and any such amendment so adopted shall be and become effective, and the articles of association or charter shall be and become amended, upon the filing in the office of the territorial treasurer of a verified certificate, signed by the president and secretary of the corporation or by the presiding officer and secretary of the meeting at which the vote was taken, setting forth the amendment by stating that the articles of association or charter has been amended to read as set forth in said certificate in full or by stating that any provision or provisions of the articles of association or charter, which shall be identified by the numerical or other designation or designations thereof in the articles of association or charter or by stating the wording thereof, has or have been amended to read as set forth in said certificate, and certifying that the amendment was adopted by the required vote as aforesaid at a meeting duly called and held for the purpose; provided that no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in an original charter or articles of association; and provided, further, that no amendment changing the name of the corporation shall become effective until the treasurer shall have determined that such amendment is not in conflict with the provisions of section 6712 and until a certificate of such change of name has been filed in the bureau of conveyances of the Territory, and the registrar shall accept such certificate for recording when issued by the treasurer or any one authorized to act in his behalf; and provided, further, that no amendment to the charter of a non-profit corporation shall become effective until the same shall be allowed by the treasurer by and with the consent of the governor." [L. 1894-5, c. 13, s. 1; am. L. 1919, c. 13,

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pt. of s. 1; am. L. 1921, c. 188, s. 1; am. L. 1923, c. 133, s. 2; am. L. 1929, c. 122, s. 1; R. L. 1935, s. 6723; am. L. 1939, c. 31, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 1, 1939.) **S.B. 127, Act 31.**

SHARES.

[D-145] An Act to Amend Section 6728-A of the Revised Laws of Hawaii 1935, as Enacted by Act 245, Series D-130, of the Session Laws of Hawaii 1937, Relating to Shares of Corporate Stock Without Par Value.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6728-A of the Revised Laws of Hawaii 1935, as enacted by Act 245, Series D-130, of the Session Laws of Hawaii 1937, is hereby amended:

1. By inserting, after the word "may", in the third from the last line of paragraph numbered (1) thereof, a "comma" and the words "but need not"; and by substituting for the "period" at the end of said paragraph the words "and relating to the capital to be attributable to shares without par value."

2. By inserting in paragraph numbered (4) thereof, immediately preceding the word "The", appearing in the 13th line on page 180 of said Session Laws, the following sentence:

"the board of directors, subject to any restrictions in the articles of association, may by resolution at any time and from time to time increase the capital attributable to shares without par value by transferring to capital any surplus, however acquired or accumulated, in such amount and type as the board of directors shall determine, and in any such case the amount of surplus so transferred shall then and thereafter be added to and constitute a part of the capital of the corporation attributable to its shares of stock without par value."

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1939.) **S.B. 155, Act 102.**

TRANSFER OF SHARES.

[D-146] An Act to Amend Section 6732 of the Revised Laws of Hawaii 1935, Relating to Transfers of Stock Sold, Pledged, Assigned or Hypothecated Prior to Attachment or Execution.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6732 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6732. Transfers of stock sold, pledged, assigned or hypothecated prior to attachment or execution. No attachment or execution

laid or levied upon the shares of any defendant in the capital stock of a corporation standing on its books in his name shall in any way affect the right, title or interest therein which shall theretofore have been acquired by any bona fide purchaser to whom or to whose agent the certificate therefor shall have been delivered prior to the laying or levying of such attachment or execution, or by any bona fide pledgee to whom or to whose agent the certificate therefor shall have been delivered prior to the laying or levying of such attachment or execution; and in case, prior to the laying or levying of such attachment or execution, such shares shall have been pledged with and the certificate therefor shall have been delivered as aforesaid to a bona fide pledgee and such shares shall also have been assigned or hypothecated to a bona fide assignee, subject to said pledge, as security for any debt or obligation junior to said pledge, then such attachment or execution shall not in any way affect the right, title or interest therein or of such bona fide assignee. The lien of any attachment or execution upon the shares of any defendant in the capital stock of the corporation standing on its books in his name shall be superior to the rights of any purchaser from or creditor of the defendant, except as is otherwise expressly provided in this section.

Purchaser. Any such bona fide purchaser, upon filing with the corporation an affidavit stating the date or dates of the payment of the purchase price therefor, the terms and conditions under which the stock was purchased, the balance of the amount, if any, owed upon the same at the exact time the attachment or execution was laid or levied upon the stock, and stating that the certificate therefor was delivered to him or his agent properly indorsed prior to the day, hour and minute that the attachment or execution was laid or levied, and certifying that a true and correct copy of the affidavit has been served upon the plaintiff or his attorney of record prior to filing the same with the corporation, giving the exact time and place of such service and stating the name or names of the person or persons upon whom the same was served, shall be entitled to a transfer into his name or the name of his nominee of the shares of stock so purchased and indorsed and delivered to him; provided, however, that if any amount is due on account of the purchase price of the stock at the time the attachment or execution was laid or levied, the lien of such attachment or execution shall extend to and continue upon the balance of the purchase price. The balance of the purchase price, or such portion thereof as may be necessary to pay and satisfy the judgment, shall be withheld and paid to the sheriff on the levy of execution in the action if then due, and if not then due shall be paid to the sheriff when the same shall thereafter become due.

Pledgee. Any such bona fide pledgee, upon filing with the corporation an affidavit that the certificate representing the stock was delivered to him or his agent properly indorsed prior to the day, hour and minute of the attachment or execution as security for a debt or other obligation owed by the defendant to the pledgee and stating the nature of the obligation and, if the same be a debt, the amount thereof, and certifying that a true and correct copy of the affidavit has been served upon the plaintiff or his attorney of record prior to filing the same with the corporation, giving the exact time and place of the service and stating the name or names of the person or persons upon whom the same was served, shall be entitled to a transfer of the shares of stock into his name as pledgee or to his nominee or into the name of a purchaser from such pledgee. Such transfer made to a

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pledgee shall not operate to defeat the lien or levy of the attachment or execution upon the equity or interest of the defendant in the stock or its proceeds, but the lien shall continue and the plaintiff shall have the right, upon the payment to the pledgee when due of the amount for which he is holding the stock as security and also upon the payment to any junior assignee entitled to the protection of the next succeeding paragraph hereof of the amount when due for which said stock has been assigned or hypothecated to such junior assignee, to secure the delivery of the stock and at the sale thereof under execution to reimburse himself out of the net proceeds thereof, first, for the amount paid to the pledgee, next, for the amount paid to any junior assignee pursuant to the next succeeding paragraph hereof, and next for the debt, principal and interest, for which the execution was levied; and, in the event that the plaintiff does not elect to pay the amount or amounts as aforesaid, then the equity or interest of the defendant in the stock or its proceeds may be sold upon execution.

Junior assignee. In case, prior to the laying or levying of such attachment or execution, such shares have been pledged with and the certificate therefor shall have been delivered to a bona fide pledgee and such shares shall also have been assigned or hypothecated to a bona fide assignee, subject to said pledge, as security for any debt or obligation junior to said pledge, then such bona fide assignee, upon filing with the corporation an affidavit that the stock was so assigned or hypothecated, subject to said pledge, prior to the day, hour and minute of the attachment or execution as security for a debt or other obligation owed by the defendant to such assignee and stating the nature of the obligation and, if the same be a debt, the amount thereof, and certifying that a true and correct copy of the affidavit has been served upon the plaintiff or his attorney of record prior to filing the same with the corporation, giving the exact time and place of the service and stating the name or names of the person or persons upon whom the same was served, shall be entitled to the protection of his junior lien upon such stock as herein provided.

Liability. The corporation making such transfer shall be free from all liability on account of any such transfer. The liability, if any, if such transfer shall have been improperly made, shall be against the defendant, purchaser, pledgee, or indorsee, as the case may be, securing the issuance of a new certificate thereon." [L. 1932, 2d, c. 37, pt. of s. 1; R. L. 1935, s. 6732; am. L. 1939, c. 74, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 232, Act 74.**

[D-147] An Act to Amend Section 6733 of the Revised Laws of Hawaii 1935, Relating to False Affidavits and Fraudulent Transfers of Corporate Stock.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6733 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6733. **Penalty.** Any person executing an affidavit provided for in section 6732 containing a statement or statements therein known

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by such affiant to be false or incorrect, and any person securing the transfer from any corporation of any stock after an attachment or execution has been laid or levied thereon by virtue of a statement in any affidavit or certificate of service known to him to be false or incorrect, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment not exceeding one year or a fine not exceeding five thousand dollars, or by both." [L. 1932, 2d, c. 37, pt. of s. 1; R. L. 1935, s. 6733; am. L. 1939, c. 67, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 20, 1939.) **S.B. 149, ACT 67.**

INCREASE OF CAPITAL—CHANGE OF STOCK PAR VALUE.

[D-148] An Act to Amend Section 6735 of the Revised Laws of Hawaii 1935, as Amended by Act 129 (Series D-132) of the Session Laws of Hawaii 1935, Relating to Increase of Capital Stock.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6735 of the Revised Laws of Hawaii 1935, as amended by Act 129 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"**Sec. 6735. Authorization; certificate to be filed with treasurer.** No increase or extension of the capital stock of any corporation organized under the laws of the Territory, having authority under its articles of association or charter to increase its capital stock, shall be legal and effective unless such increase or extension shall have been authorized by a vote of not less than three-fourths of all of the shares of stock, or if two or more classes of stock have been issued, of three-fourths of each class of stock, outstanding and entitled to vote at any meeting duly called and held for such purpose; and unless a verified certificate shall have first been filed with the treasurer, signed by the president and secretary or other duly authorized officers of the corporation, showing: that the meeting had been properly called and held; that the increase or extension had been authorized by the required vote; and showing also (1) the present authorized capital stock of the corporation; (2) the amount to which the capital stock thereof may be increased or extended under its articles of association or charter; (3) the amount of increase or extension of the capital stock duly authorized by its stockholders; and (4) that not less than ten per centum of the total authorized stock as increased has been paid in, in cash or property, or that the corporation holds cash or property of a value equal to ten per centum of the total authorized stock as increased; which certificate shall be accompanied by payment of the fee required to be paid upon the amount of increase so authorized. The treasurer shall not receive or file any such certificate without such payment." [L. 1907, c. 44, s. 1; R. L. 1935, s. 6735, am. L. 1935, c. 129, s. 1; am. L. 1939, c. 96, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1939.) **S.B. 262, ACT 96.**

REDUCTION OF CAPITAL.

[D-149] An Act to Amend Section 6737 of the Revised Laws of Hawaii 1935, as Amended by Act 133 (Series D-131) of the Session Laws of Hawaii 1937, Relating to the Reduction of the Capital Stock of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6737 of the Revised Laws of Hawaii 1935, as amended by Act 133 of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

"Sec. 6737. Reduction of capital.

(1) Any corporation (other than banking, trust and insurance companies), upon complying with the requirements of this section, may effect a reduction of its capital or capital stock by reducing the authorized capital stock of the corporation and/or by retiring any shares of stock of any class or classes or by reducing the par value of the shares of stock of any class or classes; provided, however, that no such reduction of the capital or capital stock of a corporation shall be made in violation of the rights of the stockholders of any class of the corporation as set forth in the charter or articles of association or in a resolution a certified copy of which is filed in the office of the treasurer of the Territory pursuant to the provisions of section 6728.

(2) Any such reduction of capital or capital stock shall require the vote of the holders of not less than three-fourths of all of the shares of stock of the corporation issued and outstanding, or if two or more classes of stock have been issued then of the holders of three-fourths of the shares of each class of stock outstanding and entitled to vote, which vote shall be given at any meeting duly called and held for the purpose; provided, however, that in case shares of any class of stock of a corporation are subject to redemption pursuant to provisions set forth in the charter or the articles of association of the corporation or in a resolution a certified copy of which is filed in the office of the treasurer of the Territory pursuant to section 6728, and if such provisions specify that all or any part of said shares of such class may be redeemed pursuant to determination other than by vote of stockholders as aforesaid, whether by the board of directors or by the vote of any different percentage of stockholders or of any class or classes thereof or otherwise, then any reduction of the capital or capital stock of the corporation by the redemption of all or any part of said shares of such class shall not require the vote of stockholders as aforesaid but may be effected pursuant to determination made as specified in such provisions. Any reduction of the capital or capital stock of a corporation pursuant to this paragraph shall be subject to the provisions of paragraph (7) of this section.

(3) A verified certificate shall be signed by the president and secretary or other duly authorized officers of the corporation and shall be presented to the treasurer of the Territory, setting forth therein facts showing that the required vote or other determination pursuant to the provisions of this section of the proposed reduction of capital or capital stock has been obtained or made, and certifying that no distribution of assets representing the surplus created by such reduction will be made at any time unless the remaining assets of the corporation shall then equal in value the total par value of the remaining capital stock of the corporation and unless the remaining assets

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of the corporation shall then equal in value twice the amount of the indebtedness of the corporation.

(4) In case any such reduction shall involve only a reduction in the authorized capital stock of the corporation and shall not involve the retirement or the reduction in the par value of any shares which are issued and outstanding or have been issued and are owned by the corporation, then the treasurer shall enter the reduction of record in his office upon the filing of the verified certificate referred to in paragraph (3) of this section and upon payment of the fee required by law.

(5) In case any such reduction shall involve the retirement or the reduction in the par value of any shares which are issued and outstanding or have been issued and are owned by the corporation, then the treasurer, after the receipt of said verified certificate, shall publish a notice of the proposed reduction in a newspaper of general circulation published in the Territory at least once a week for four successive weeks (four insertions), the first publication to be not more than ten (10) days after receipt of the certificate. Upon the expiration of thirty (30) days after the first publication of the notice, if no protest or objections to the proposed reduction shall have been filed in the office of the treasurer by any person claiming to be a stockholder or creditor of the corporation, the treasurer shall enter the reduction of record upon the payment of the fee required by law. Otherwise the treasurer shall proceed to consider any objections made and if he shall thereupon be satisfied that the required vote or other determination has been obtained or made, he shall enter the reduction of record upon payment of the fee required by law.

(6) Upon the entry of record by the treasurer of any reduction of the capital or capital stock of the corporation, said reduction shall stand effective as of the date of the original filing of the certificate, unless the corporation shall at the time of the filing of the certificate have requested that said reduction shall become effective on or as of some subsequent date, in which case said reduction shall become effective on or as of the requested date.

(7) A corporation may at any time or from time to time after the entry of record of a reduction of its capital or capital stock or after the effective date of such reduction, whichever shall be the later, distribute among its stockholders any or all of the assets representing the surplus created by said reduction; provided, however, that no such distribution shall be made at any time unless the remaining assets of the corporation shall then equal in value the total par value of the remaining capital stock of the corporation and unless the remaining assets of the corporation shall then equal in value twice the amount of the indebtedness of the corporation.

(8) In case any reduction pursuant to this section shall be made by retiring any shares of stock of any class or classes, said reduction may be made by retiring such shares of stock owned by the corporation without the necessity of retiring any shares of stock issued and outstanding in the hands of stockholders of the corporation. In case any reduction pursuant to this section shall be made by retiring any shares of stock of any class or classes issued and outstanding in the hands of stockholders of the corporation, then, unless the charter or articles of association of the corporation or the resolution creating the class of stock shall otherwise provide or unless the vote or other

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determination providing for such reduction shall with the consent of all of the stockholders or the subsequent approval of the treasurer specify the particular shares to be retired, each of the stockholders owning shares of the class or classes of which shares are to be retired shall be entitled to participate pro rata in the surrender of shares of stock of such class or classes for cancellation or retirement, provided that, insofar as such pro rata distribution shall be impossible without the retirement of fractional shares, the shares to be retired in order to eliminate the retirement of fractional shares may be chosen by lot in such manner as shall be approved by the stockholders or board of directors of the corporation. If any stock holder shall fail to exercise his option to participate pro rata as aforesaid within thirty (30) days after notice mailed to him by the treasurer or other authorized officer of the corporation, the corporation may accept any other shares in lieu thereof and retire the same. Nothing in this section shall be deemed or interpreted to permit any distribution to stockholders of any class in violation of the equal or prior rights of stockholders of another class, as set forth in the charter or articles of association or in a resolution a certified copy of which is filed in the office of the treasurer of the Territory pursuant to the provisions of section 6728." [L. 1911, c. 114, s. 1; R. L. 1935, s. 6737; am. L. 1937, c. 133, s. 1; am. L. 1939, c. 82, s. 1.]

[Sic]

Section 2. This Act shall take effect upon its approval but shall not apply to any reductions of capital stock with respect to which sworn certificates shall have been presented to the treasurer prior to such approval.

(Approved April 22, 1939.) **S.B. 230, ACT 82.**

MEETINGS.

[D-150] An Act to Amend Section 6740 of the Revised Laws of Hawaii 1935, Relating to the Validation of Irregular Meetings of Stockholders or Members of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6740 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 6740. Irregular meetings, how validated.** Subject to such limitations, if any, as may expressly be contained in the articles of association or charter or in the by-laws of any corporation, or as may expressly be contained in any statutory provisions applicable to any particular action, when three-fourths of the stockholders or members entitled to vote at any meeting shall by themselves or their proxies or other authorized representatives sign a written consent or approval on the record of such meeting, the doings of such meeting, however called or notified, shall be valid." [C. C. 1859, s. 1430; R. L. 1935, s. 6740; am. L. 1939, c. 97, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1939.) **S.B. 148, ACT 97.**

BY-LAWS.

[D-151] An Act to Amend Chapter 221 of the Revised Laws of Hawaii 1935, Relating to Corporations, by Amending Section 6741 of said Revised Laws and by Adding a new Section to said Chapter to be Numbered 6741-A Relating to By-Laws of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 221 of the Revised Laws of Hawaii 1935 is hereby amended by amending section 6741 so that said section shall read as follows:

"Sec. 6741. By-laws; corporation procedure. The by-laws of a corporation may be adopted, amended or repealed by the vote of the holders of not less than a majority of all of the shares of stock outstanding, or if two or more classes of stock have been issued, of a majority of each class of stock outstanding and entitled to vote, or in case of a non-stock corporation, the majority of its members, at any meeting duly called and held, the notice of which shall have stated that a purpose of the meeting is to consider the adoption, amendment or repeal of the by-laws; provided, however, that by-laws may be adopted at the incorporation of a corporation by the signers of the articles of association; and provided further, that the articles of association or charter or by-laws of any corporation may require the authorization or approval of a larger proportion of the stockholders or members, or of any class or classes thereof for the adoption, amendment or repeal of by-laws of the corporation, and also may impose any other restrictions on the adoption, amendment or repeal of by-laws and, in any such case, such provisions of the articles of association or charter or by-laws shall be complied with in order to effect any such adoption, amendment or repeal.

Every corporation shall keep in its principal office for the transaction of its business in the Territory the original or a copy of the by-laws as amended or otherwise altered to date, certified by the secretary or other proper officer, which shall be open to inspection by the stockholders or members at all reasonable times during office hours.

No person dealing with the corporation shall be charged with constructive notice of the by-laws." [C. C. 1859, s. 1431; R. L. 1935, s. 6741; am. L. 1939, c. 84, s. 1.]

Section 2. Chapter 221 of the Revised Laws of Hawaii 1935 is hereby further amended by adding thereto a new section to be numbered 6741-A to read as follows:

"Sec. 6741-A. Scope of by-laws. The by-laws of a corporation may include any provisions not in conflict with law or the articles of association or charter for the management of its property, the election and removal of its directors and officers, the regulation of its affairs and the transfer of its stock; provisions in respect to the manner of execution, revocation, use and disposition of proxies; the manner of closing the stock transfer books or the fixing of the date for the determination of stockholders entitled to notice of and to vote at any meeting and any adjournment thereof and entitled to receive payment of any dividend or to any allotment of rights, or to exercise the right with respect to any change, conversion or exchange of capital stock, or to give any consent in any matter requiring the consent of stockholders; the

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number, manner of fixing or changing the number, classification, tenure of office, causes for and manner of removal, and compensation of, directors, alternate directors and substitute directors; the manner of approving the acts and doings of the directors, officers and agents by the stockholders and members; the appointment of an executive committee and other committees of the board of directors and the manner of prescribing the authority for such committee or committees; the manner of levying and collecting assessments on shares not fully paid; the transfer, forfeiture and termination of membership in non-profit corporations and whether the property interest of members shall cease at their death, and the vote ascertaining the property interest, if any, at death or termination of membership; the manner of signing, sealing, executing and delivering corporate documents and instruments, including the manner of using facsimile signatures; and any other provisions not in conflict with law or the articles of association or charter."

Section 3. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 89, Act 84.**

[D-152] An Act to Amend Section 6742 of the Revised Laws of Hawaii 1935, Relating to Meetings of Members or Stockholders of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6742 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6742. Meeting called by circuit judge, when. Whenever, by reason of the death, absence or other legal impediment of the officers of any corporation, there shall be no person duly authorized to call or preside at a legal meeting thereof, any circuit judge of the circuit where the corporation has its principal office or any circuit judge of the first circuit, may, on written application of four or more of the members or stockholders thereof, issue an order to any of the members or stockholders, directing him to call a meeting of the corporation, by giving such notice as shall be required by the by-laws of the corporation. The judge may, in the same order, direct one of the members or stockholders to preside at the meeting, and any such meeting held pursuant to said order shall be valid." [C. C. 1859, s. 1432; R. L. 1935, s. 6742; am. L. 1939, c. 22, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved March 30, 1939.) **S.B. 92, Act 22.**

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POWERS.

[D-153] An Act to Amend Section 6743 of the Revised Laws of Hawaii 1935, as Amended By Act 152 (Series D-133) of the Session Laws of Hawaii 1935, and to Amend Section 6744 of the Revised Laws of Hawaii 1935, Relating to Powers of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6743 of the Revised Laws of Hawaii 1935, as amended by Act 152 (Series D-133) of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6743. Powers, express. Every corporation created in the Territory shall have power: 1. To have succession by its corporate name for the period limited in its articles of association or charter, but not beyond the period, if any, limited by law, and when no period is limited, perpetually; 2. to sue and be sued in any court; 3. to make and use a common seal, and alter the same at its pleasure; 4. to hold, purchase and convey such property as the purposes of the corporation shall require, not exceeding the amount limited by its articles of association or charter if any limit is therein prescribed, and to mortgage, pledge and hypothecate the same to secure any debt of the corporation; 5. to appoint such subordinate officers and agents as the business of the corporation shall require; 6. to make by-laws not in conflict with any existing law or the articles of association or charter." [C. C. 1859, s. 1426; am. L. 1903, c. 29, s. 1; R. L. 1935, s. 6743; am. L. 1935, c. 152, s. 1; am. L. 1939, c. 89, s. 1.]

Section 2. Section 6744 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6744. Additional and implied powers. In addition to the powers enumerated in section 6743 and in addition to the powers granted by any other statutory provisions, every corporation created under the provisions of this chapter may possess and exercise any and all powers, not inconsistent with any existing law, set forth in its articles of association or charter or reasonably incidental to the fulfilment of its purpose or purposes as set forth in its articles of association or charter or reasonably incidental to the exercise of its powers as set forth therein." [C. C. 1859, s. 1427; R. L. 1935, s. 6744; am. L. 1939; c. 89, 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 24, 1939.) **S.B. 88, ACT 89.**

[D-154] An Act to Amend Chapter 221 of the Revised Laws of Hawaii 1935, as Amended by Adding Thereto a New Section to be Known as Section 6744-B, Relating to the Power of Corporations to Purchase, Hold and Dispose of Shares of Their Own Stock.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 221 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding, after section 6744 thereof, a new section to be numbered 6744-B, to read as follows:

"Sec. 6744-B. Power of corporations to acquire, hold and dispose of their own shares.

(1) A corporation may purchase shares of stock issued by it under any or all of the following circumstances: (a) to collect or compromise in good faith a debt, claim or controversy with any stockholder of the corporation, or (b) from a stockholder or stockholders of the corporation who, by reason of dissent from any proposed corporate action, is or are entitled pursuant to statutory provisions to receive the value of such shares, or (c) from officers or employees of the corporation who have purchased such shares from the corporation under agreements reserving to the corporation the option to repurchase or obligating it to repurchase such shares; provided, however, that no such purchase shall be made when the value of the assets of the corporation is less than the amount of its debts or when the effect of such purchase would be to reduce the value of the assets of the corporation to less than the amount of its debts. A corporation may also purchase shares of stock issued by it by the use of any surplus of the corporation, including paid-in surplus and surplus created by a reduction of capital stock. A corporation shall not purchase, directly or indirectly, any shares of stock issued by it, except as permitted by this section. Nothing in this section shall be construed to prohibit shares being forfeited to a corporation for delinquent assessments or non-payment of the subscription price therefor or to prohibit a corporation from acquiring shares of its own stock by gift or bequest or upon a merger or consolidation with or by distribution of the assets of another corporation or to prohibit a corporation by provisions in its charter or articles of association or by-laws from setting forth additional legal restrictions on its power to purchase shares of stock issued by it.

(2) Shares of its own stock acquired by a corporation shall be carried as treasury stock unless or until the same shall be retired upon reduction of capital pursuant to the provisions of section 6737. Such shares while held by the corporation shall not carry voting or dividend rights and shall not be counted as outstanding shares for the purpose of determining any quorum or vote or for any other purpose and shall not be counted as assets for the purpose of computing a surplus available for dividends or the purchase of shares of stock issued by the corporation or the making of any other distributions to the stockholders.

(3) Subject to any restrictions which may be set forth in its charter or articles of association or by-laws, any shares of its own stock held by a corporation may be sold from time to time to such person or persons and for such consideration or considerations and upon such terms and conditions as may be determined from time to time by the board of directors."

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **S.B. 261, ACT 125.**

DUTIES AND LIABILITIES.

[D-155] An Act to Amend Section 6748 of the Revised Laws of Hawaii 1935, Relating to the Liability of Subscribers and Stockholders, and to Amend Section 6749 of Said Revised Laws, Relating to the Liability for Debts of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6748 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6748. Of subscribers and stockholders; assessments; liability to corporation and creditors. Every subscriber to shares and, except as otherwise in this section provided, every other person to whom shares were originally issued shall be liable to the corporation for the unpaid portion of the full consideration agreed to be paid for such shares, but in any event for not less than the unpaid portion of the amount of capital of the corporation attributable to such shares. Any transferee of shares who has acquired such shares in good faith without knowledge that they were not paid in full or to the extent stated in the certificate for such shares, shall not be liable for any amount beyond that shown by such certificate to be unpaid on the shares represented thereby; and any holder who derives his title through such a transferee and who is not himself a party to any fraud affecting the issuance of such shares shall have all the rights of his transferor.

Every transferee of partly paid shares who acquired them under a certificate showing the fact of part payment on such shares, and every transferee of such shares (other than a transferee who derives title from a holder in good faith without knowledge, and who is not a party to any fraud affecting the issuance of such shares) who acquired them with actual knowledge that the shares were not paid in full or to the extent stated in the certificate therefor shall be personally liable to the corporation for calls made or for installments of the amount unpaid becoming due until he transfers them to one who becomes liable therefor. When a shareholder makes a transfer of shares in good faith which is duly registered on the corporate books to one who becomes liable therefor, he shall be thereby discharged from liability to the corporation for the portion of the subscription price or attributable capital which remains uncalled for at the time of registration, unless it is otherwise provided in the certificate or unless the shareholder shall have executed a subscription contract for the issuance of said shares. After a transfer has been registered there shall be no lien upon the shares for calls already made or installments of the price due at the time of transfer and registration except as reserved in the certificate. The liability under subscription contracts, written or oral, of shareholders imposed by this section shall be an asset of the corporation and may be enforced by any appropriate proceedings. No release executed by the corporation of any such liability shall be effective in any action brought by or on behalf of any creditor to reach and apply any such liability. In the event the corporation shall purchase from any stockholder (other than bona fide officers or employees of the corporation who have purchased such shares from the corporation under agreements reserving to the corporation the option to repurchase or obligating it to repurchase such shares) shares of stock which have not been fully paid, the transferor of such partly paid shares shall, nevertheless, remain liable to the corporation for the amount unpaid upon said stock

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in any action brought by or on behalf of any creditor to reach and apply the debt for the amount unpaid upon said stock at the time of repurchase.

No person holding shares in good faith as executor, administrator, guardian, trustee, receiver and any other representative or fiduciary capacity shall be personally liable as a shareholder by reason of so holding such shares, but the estate and funds in the hands of such fiduciary or representative shall be so liable to the extent hereinabove provided.

No p'edgee or other holder of shares as collateral security shall be personally liable as a shareholder, but the person pledging such shares shall be considered a holder thereof and shall be liable as a shareholder.

The dissolution of the corporation shall not affect the subscribers' or shareholders' liability and any subscriber or shareholder who shall make payment to the corporation or to any creditor of the corporation in discharge in whole or in part of any debt or liability of the corporation shall have full rights of subrogation to the end that the contribution of such subscriber or shareholder shall not exceed the proportionate contributions made by all other subscribers and stockholders for the discharge of the debts of the corporation." [C. C. 1859, s. 1435; R. L. 1935, s. 6748; am. L. 1939, c. 113, s. 1.]

Section 2. Section 6749 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 6749. Liability for debts.** All the property of any corporation shall be liable for the just debts thereof, but no subscriber or shareholder shall be liable for the debts of the corporation other than as specifically provided in this chapter." [C. C. 1859, s. 1436; R. L. 1935, s. 6749; am. L. 1939, c. 113, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **S.B. 90, ACT 113.**

[D-156] An Act to Amend Section 6750 of the Revised Laws of Hawaii 1935, Relating to Limitations on the Debts of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6750 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"**Sec. 6750. Limits of debts.** The amount of debts which any corporation shall owe, shall at no time exceed its capital stock, unless authorized by a vote of the shareholders of the corporation owing at least two-thirds of its issued and outstanding shares of stock, or unless otherwise provided by the articles of association or charter; provided that nothing herein shall be deemed to affect the remedy of creditors of or persons dealing with the corporation for debts

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or liabilities incurred by the corporation." [C. C. 1859, s. 1437; am. L. 1921, c. 52, s. 1; R. L. 1935, s. 6750; am. L. 1939, c. 21, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Became effective March 30, 1939, without the Governor's signature.)

S.B. 93, ACT 21.

[D-157] An Act to Amend Section 6752 of the Revised Laws of Hawaii 1935, as Amended by Act 96 (Series D-134) of the Session Laws of Hawaii 1935, Relating to the Filing of Annual Exhibits of Corporations, and to Amend Section 6753 of the Said Revised Laws Relating to Filing Fees of Corporations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6752 of the Revised Laws of Hawaii 1935, as amended by Act 96 (Series D-134) of the Session Laws of Hawaii 1935, is hereby further amended by adding at the end of the last paragraph thereof a new sentence reading as follows:

"The treasurer may, for good cause shown, reduce or waive the penalty imposed by this section."

Section 2. Section 6753 of the Revised Laws of Hawaii 1935 is hereby amended by deleting the words "for dissolution of corporation, no charge", appearing in the seventeenth line of said section, and inserting in lieu thereof the words "for voluntary dissolution of a corporation, including appointment of trustee, five dollars; for involuntary dissolution, no charge;".

Section 3. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **S.B. 87, ACT 48.**

DISSOLUTION.

[D-158] An Act to Amend Chapter 221 of the Revised Laws of Hawaii 1935, by Amending Section 6754 Thereof as Amended by Act 158 (Series D-135) of the Session Laws of Hawaii 1935, and Section 6755 Thereof as Amended by Act 93 (Series D-134) of the Session Laws of Hawaii 1937, and Section 6756 Thereof as Finally Amended by Act 93 (Series D-134) of the Session Laws of Hawaii 1937, and Section 6757 Thereof, and by Adding two new Sections to Be Numbered 6756-A and 6756-B, Respectively, Relating to the Dissolution of Corporations and the Powers, Liabilities and Duties of Trustees Upon Dissolution.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6754 of the Revised Laws of Hawaii 1935, as amended by Act 158 of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

“Sec. 6754. Voluntary dissolution; certificate; notice; authority of treasurer. Any corporation wishing to dissolve itself at any time before the expiration of its charter or articles of association, or within two years after such expiration, may present to the treasurer a petition requesting dissolution, together with a sworn certificate, signed by the president and secretary of the corporation, or by the presiding officer and secretary of the meeting at which the vote was taken, setting forth that the dissolution has been approved, at a meeting duly called for that purpose, by the holders of not less than three-fourths of the issued and outstanding shares of each class of its stock, even though their right to vote be otherwise restricted or denied by the charter, articles of association, by-laws or resolution of the corporation, or in the case of a non-stock corporation, by the vote of not less than three-fourths of the members present at said meeting. The treasurer shall enter the petition and certificate of record in his office and after publication of notice of the proposed dissolution in some newspaper of general circulation published in the Territory at least once in each of three successive weeks (3 publications) shall proceed to consider the same, and when satisfied that the vote certified has been duly taken, shall declare the corporation then dissolved unless the corporation shall, at the time of filing the petition, have requested that said dissolution shall become effective on or as of some subsequent date, in which case said dissolution shall become effective on or as of the requested date.” [C. C. 1859, s. 1439; am. L. 1923, c. 141, s. 1; R. L. 1935, s. 6754; am. L. 1935, c. 158, s. 1; am. L. 1939, c. 95, s. 1.]

Section 2. Section 6755 of the Revised Laws of Hawaii 1935, as amended by Act 93 of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

“Sec. 6755. Involuntary; ordered by treasurer and certification, notice, etc. If any corporation shall have failed or neglected, for a period of two years, to file an annual exhibit as required by law; or if any corporation shall cease to have any assets and shall fail to function as shown by the certificate, under oath, of any officer, director or manager of the corporation; or if the charter or articles of association of the corporation have expired and, within a period of two years, no application for renewal of the same shall have been filed in accordance with the provisions of this chapter, the treasurer may in any such event disincorporate the corporation or annul the articles of association or charter of incorporation of the corporation and declare the same dissolved, after publishing notice once in each of eight successive weeks (eight publications) in some newspaper of general circulation published in the Territory, of his intention to dissolve such corporation. In the event of any such corporation being declared dissolved any trustee appointed to settle the affairs of the corporation shall pay to the Territory out of any funds which may come into his hands as trustee a sum equal to any penalty imposed under the provisions of section 6752.” [L. 1915, c. 57, s. 1; am. L. 1923, c. 141, s. 2; am. L. 1925, c. 138, s. 1; R. L. 1935, s. 6755; am. L. 1937, c. 93, s. 1; am. L. 1939, c. 95, s. 2.]

Section 3. Section 6756 of the Revised Laws of Hawaii 1935, as finally amended by Act 93 of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

“Sec. 6756. Proceedings after dissolution; appointment of trustees. Upon the dissolution of a corporation, whether voluntary or involun-

tary, (unless some other person or persons shall be appointed by the legislature, the treasurer, or by some court of competent authority) the directors or managers of the corporation, by whatever name known in law, shall be trustees for creditors and stockholders of the corporation dissolved, with full powers to settle the affairs of the corporation." [C. C. 1859, s. 1440; am. L. 1909, c. 135, s. 1; R. L. 1935, s. 6756; am. L. 1935, c. 158, s. 2; am. L. 1937, c. 93, s. 2; am. L. 1939, c. 95, s. 3.]

Section 4. Chapter 221 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new section to be numbered 6756-A to read as follows:

"Sec. 6756-A. Trustee; powers, liabilities, duties. The title to all assets and property, real, personal and mixed, belonging to any such corporation shall, immediately upon the dissolution thereof, unless by decree of court of competent jurisdiction it is otherwise ordered, vest in such trustee or trustees for the creditors and stockholders of the corporation dissolved.

Under the name of the trustee or trustees of the corporation dissolved (or under the name of the survivors of said trustees), unless and until some other person or persons be appointed by some court of competent jurisdiction, the said trustee or trustees shall have power: To sue for and collect the debts, claims and demands due to the corporation, or compound and settle any claims as they may deem best; to have, hold, reserve, sell and dispose of property, real, personal and mixed; to adjust and pay all debts of the corporation dissolved; to proceed as speedily as practical to a complete winding up of the corporation and, to that end, to exercise all powers of such dissolved corporation; to file bills for instructions in any court of competent jurisdiction on any matters concerning the administration of the assets under their control; to divide among the stockholders moneys and other properties that shall remain after paying the debts and necessary expenses; and they shall be jointly and severally liable to the creditors and to the stockholders to the extent of the corporation property which shall come into their hands.

The corporation may enter into a contract or agreement with any person or persons who are requested by the corporation to act as trustee or trustees, covering the administration of the assets and properties of the corporation, and if such persons be appointed trustees as herein provided such contract shall in all respects be effective and shall be binding upon the corporation to the full amount of the assets coming into the hands of said trustees, provided that no such contract shall prejudice the rights secured by law to the creditors of the corporation."

Section 5. Chapter 221 of the Revised Laws of Hawaii 1935 is hereby further amended by adding thereto a new section to be numbered 6756-B to read as follows:

"Sec. 6756-B. Claims, administration, accounts, commissions. The trustees for dissolved corporations shall forthwith publish, once in each of four successive weeks (four publications) in some newspaper of general circulation published in the Territory, a notice to all creditors of the corporation to present their claims, at a place designated in the notice, within ninety days from the first publication of the notice, and shall, within thirty days from the publication of the

notice, mail, postage prepaid, a like notice to every creditor whose name and address is known to the trustee or trustees and who has not, prior to the mailing of such notice, presented his claim. All claims not so presented shall be forever barred. The trustees, with the approval of the treasurer, may omit the publication of such notice if the assets of the corporation are insufficient to pay for such publication.

The trustees for dissolved corporations shall render and file in the office of the treasurer within one year after their appointment or within sixty days after making a complete distribution of the assets to the creditors and stockholders, whichever date is earlier, an itemized account, on oath, showing all receipts and disbursements. In the event that such complete distribution has not been made then, unless the treasurer shall extend the time for filing the account, the trustees shall file an interim account and shall be required to file such further interim accounts and a final account at such time as the treasurer shall determine. The treasurer may for good cause shown extend the time for filing of any account and in the event an account is not filed within thirty days after notification by the treasurer that the account is due, any stockholder or creditor may file a petition in the circuit court at chambers, in equity, of the judicial circuit in which such corporation has its principal office or in the first judicial circuit, praying the court to require said trustees to account for all assets and properties coming into their hands. If the court shall determine that the failure to file said account was wilful, the cost of such suit shall be taxed against the trustees in their personal capacity. Nothing herein shall be construed to prevent any stockholder or creditor from filing in any court of competent jurisdiction a suit for such relief as may be proper in the event that any account filed shall be improper or unsatisfactory. No account shall require the approval of the treasurer but shall be a public document open to the inspection of all interested parties. The trustees for dissolved corporations shall, in the absence of a contract or agreement entered into by the trustees providing for a greater or lesser amount, be entitled to the fees and commissions provided for trustees by the provisions of section 3793; provided, however, that in the event that there are insufficient assets to pay all of the claims of the creditors, the treasurer shall, after providing an opportunity for a hearing at which any interested creditor may appear, fix the fees and commissions collectible by the trustee, which fees and commissions may be fixed at a sum less than that provided for in section 3793 or provided for in any such contract or agreement. If in the case of involuntary dissolutions there are insufficient assets in the estate to pay the trustee the reasonable value of his services, the treasurer may allow and pay to such trustee out of any available appropriation for the current expenses of the treasurer's office, a fee of not more than twenty dollars."

Section 6. Section 6757 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6757. Tax, etc., clearance as prerequisite for certificate of dissolution of corporation. No certificate showing the allowance of the dissolution of any corporation organized or acting under the laws of the Territory shall be allowed or issued by any governmental authority in the Territory until and after the presentation of a valid certificate showing that all of the taxes, imposts, license fees and assessments theretofore levied upon, due and payable by the corporation to the

[Sic] Territory or any of its municipal divisions, have been fully paid and discharged, or until the officers of the corporation shall file with the treasurer satisfactory evidence showing that all such taxes, imposts, license fees and assessments will be paid out of the assets and properties of the corporation, or until the said officers shall furnish a good and sufficient undertaking of some corporation, firm or person satisfactory to the treasurer that all such lawful taxes, imposts, license fees and assessments will be paid; provided, however, that this section shall not apply to certificates issued in accordance with section 6755." [L. 1923, c. 53, s. 1; R. L. 1935, s. 6757; am. L. 1939, c. 95, s. 6.]

Section 7. This Act shall take effect upon its approval.

(Approved April 25, 1939.) **S.B. 154, ACT 95.**

CHAPTER 223A. INDUSTRIAL LOAN AND INVESTMENT ACT.

[D-159] An Act Relating to the Business of Industrial Loans, Amending Chapter 223A of the Revised Laws of Hawaii 1935, as Enacted by Act 231 of the Session Laws of Hawaii 1937, Providing for the Purging of Usury of Certain Loans Heretofore Made by Licensees Under Previous Laws, if Adjusted to Conform to this Act, and Restricting the Defense of Usury and Actions Based on the Usurious Nature of Certain Loans Heretofore Made by Such Licensees.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 223A of the Revised Laws of Hawaii 1935, as enacted by Act 231 of the Session Laws of Hawaii 1937, relating to the business of industrial loans is hereby amended to read as follows:

"**Sec. 6782. Application.** This chapter shall be applicable to every person, firm, partnership, company, corporation and unincorporated association engaged in or attempting to engage in business as an industrial loan company or which shall hereafter be organized for the purpose of engaging or attempting to engage in the industrial loan business, as defined in this chapter, and which charges, contracts for or receives on any loan a greater rate of interest, discount or consideration than would be permissible under the provisions of section 7052. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"**Sec. 6782A. Definitions.** As used in this chapter and unless a different meaning appears from the context: (1) 'Company' means any person, firm, partnership, corporation and unincorporated association to which this chapter is applicable and includes any foreign corporation doing business in the Territory; (2) 'treasurer' means the treasurer of the Territory; (3) 'bank examiner' includes the deputy bank examiner of the Territory appointed under section 2220; (4) 'industrial loan company' means any person, firm, partnership, corporation and unincorporated association organized or which may hereafter be organized, and which is engaged in or may hereafter be engaged in

the lending of money to be repaid in weekly, monthly or other periodical instalments of principal sums as a business; provided, however, that this definition shall not be construed to include banks, trust companies, building and loan associations, or mortgage companies whose principal business consists of loans for the purchase of homes (if investment certificates issued by such mortgage companies shall be secured by mortgage and if the appraised value of the mortgaged property shall be 33-1/3% in excess of the total of the certificates such mortgage secures), credit unions, pawnbrokers, or licensees under Act 232 of the Session Laws of Hawaii 1937, having the short title 'Small Loan Act'; (5) 'engaging in the business of an industrial loan company' or 'carrying on the business of an industrial loan company' or 'the industrial loan business' or any other term of similar import, means and includes the loaning of money to be repaid in weekly, monthly or other periodical instalments of principal sums, and the charging, receiving or requiring of compensation, interest, discount, fees or charges of whatever nature or kind for the use of such money, in excess of the charges permitted by section 7052; provided, however, that direct financing to customers by mercantile firms or persons engaged in the mercantile business shall not be deemed engaging in the business of an industrial loan company; nor shall the loaning by an individual of his own funds be deemed engaging in such business, unless he charges, contracts for or receives on any loan a greater rate of interest, discount or consideration than would be permissible under section 7052; (6) 'firm' means a partnership or an unincorporated association; (7) 'principal' or 'principal amount' means the face amount of the note or other contract concerned; (8) 'contract' includes promissory notes; (9) where interest or other charges, or both, are authorized or permitted by this chapter to be 'paid in advance', 'deducted in advance', 'collected in advance', 'received in advance', or 'charged in advance', or where any or all of them are expressed to be 'payable', 'deductible', 'collectible', or 'chargeable', 'in advance', or where any expressions of similar import are used, they shall be construed as authorizing and permitting, (in addition to any other practices permitted by this chapter) any of the following practices:

(a) Such interest may be computed on the principal amount of the contract (at the maximum rate or rates mentioned in section 6782-L, or at any lesser rate or rates) for the duration of the contract as though such principal amount were to remain outstanding and unpaid for the full term of the contract, and such interest and other charges may be deducted from such principal amount at the time the loan is made and retained by the lender and applied (in the case of such other charges) for the purposes authorized by this chapter, notwithstanding the fact that periodical payments of principal are required by the contract and that the borrower does not receive the full amount of such principal, but only the balance thereof after such deductions.

(b) The interest may be computed (at the maximum rate or rates mentioned in section 6782-L, or at any lesser rate or rates) upon the amount to be actually received by the borrower, as though said amount were to remain outstanding and unpaid for the full term of the contract, and such interest and other charges may be added to said amount to be actually received by the borrower, and the total amount produced by such addition may then be constituted the principal amount of the contract, and the amount of the interest and other charges so added may then nevertheless be deducted from said prin-

cipal amount and retained by the lender at the time the loan is made, notwithstanding the fact that periodical payments of said principal amount are required by the contract and that the amount actually received by the borrower is less, by the amount of the interest and other charges so added thereto, than said principal amount; provided, that no loan upon which interest and other charges have been added for the purpose of determining the principal amount of the contract shall be held usurious if the interest and other charges so added do not exceed the amount of interest and other charges which would be deductible from a loan of the same principal amount if computed in the manner set forth in paragraph (a) of this item (9). [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-B. Corporations. Any domestic corporation, heretofore or hereafter organized, or any foreign corporation authorized to do business in the Territory may, upon compliance with and subject to the provisions, limitations and restrictions contained in this chapter and any other applicable law, engaged in the industrial loan business if it is so authorized under the general corporation laws, if a domestic corporation, or under the laws of the jurisdiction where incorporated, if a foreign corporation. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-C. Scope and application of chapter to existing corporations. The provisions of this chapter shall apply to and govern all corporations now existing under the laws of the Territory or authorized to do business in the Territory and engaged in the Territory in the industrial loan business; and the powers, duties, privileges and restrictions conferred and imposed upon any industrial loan company now existing under the laws of the Territory and doing business in the Territory are abridged, enlarged and modified, as each particular case may require, to conform to the provisions of this chapter. Nothing in this chapter shall be construed to impair the obligation of any contract heretofore made or to render illegal any transaction or investment heretofore entered into or made, pursuant to the provisions of law in force when such contract, transaction or investment was entered into or made. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-D. General corporation laws applicable when. All provisions of the general corporation law, not inapplicable and not inconsistent with the provisions of this chapter, shall apply to incorporated industrial loan companies. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-E. Licenses. Every company charging, contracting for or receiving on any loan a greater rate of interest than permitted by section 7052, which may hereafter engage in the industrial loan business shall obtain a license to engage in such business in the manner and subject to the conditions in this chapter provided.

Any company obtaining such a license shall be subject to this chapter and shall possess all of the rights, powers and privileges and shall be subject to all of the duties, restrictions and limitations contained in this chapter. No company which fails to obtain, in the manner herein provided, a license, as aforesaid, shall possess or exercise, unless expressly given and possessed or exercised under other laws, any of the benefits, rights, powers or privileges which are herein

conferred upon licensees hereunder. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"Sec. 6782-F. Application for license. Any company required or desiring to obtain a license to operate under this chapter shall file an application, in writing, under oath, with the bank examiner, in the form prescribed by the bank examiner, which shall contain: (1) the full name and address of the applicant, and, if the applicant is a firm, of every member thereof, or, if the applicant is a corporation, of every officer thereof; (2) the county and town with street and number where the business is to be conducted; and (3) such other information as the bank examiner may require.

Upon the filing of such application, if the bank examiner shall upon investigation find (1) that the financial responsibility, experience, character and general fitness of the applicant and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purposes of this chapter; (2) that allowing such applicant to engage in such business will promote the convenience and advantage of the locality or community in which the business of the applicant is to be conducted; and (3) that the applicant has available for the operation of such business at the specified location capital of at least \$15,000.00; (the foregoing facts being conditions precedent to the issuance of a license under this chapter) he shall write upon the face of said application the fact that he has approved the same, together with the date, and affix his signature. The application shall then be returned to the applicant who shall upon receipt of an approved application transmit the same within 30 days to the treasurer who shall file and preserve such application.

No application shall be disapproved except after the applicant shall have had a notice of a hearing on said application and an opportunity to be heard thereon. If the application is denied, the bank examiner shall, within 20 days thereafter, prepare and keep on file in his office, a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicant a copy thereof. Within 10 days after the receipt of such copy the applicant may appeal from said order of denial to a board consisting of the treasurer, auditor and attorney general by filing with said auditor a notice of appeal. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the said board shall file with the auditor its decision in writing either ordering the bank examiner to approve the application or affirming his action in disapproving the same. A copy of the decision or order of said board shall forthwith be served upon the applicant by the bank examiner. Within 10 days after the receipt of such copy the applicant may appeal from an adverse decision of said board to a circuit judge at chambers of the circuit in which the applicant proposes to establish an office by filing a notice of appeal with the clerk of the circuit court of said circuit. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the said judge may order the bank examiner to approve the application or affirm his action in disapproving the same. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"Sec. 6782-G. Licenses must be secured; by whom. No company

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required to secure a license under this chapter shall engage in the industrial loan business without first obtaining such a license. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-H. Application to be filed with treasurer; fee; license. The applicant at the time of filing an approved application with the treasurer shall pay to the treasurer, for the use of the Territory, the sum of \$35.00 as a license fee. The treasurer shall then issue a written license to such company, conditioned according to law, authorizing such company to engage in the industrial loan business. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-I. No mutual corporations. No incorporated companies of a mutual character shall engage in the industrial loan business nor shall the treasurer issue a license to any such company. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-J. Capital stock. The capital stock of any corporation, desiring to engage in the industrial loan business, shall be not less than \$15,000.00, which said capital stock shall be fully paid to the corporation in cash. No commission, fees, brokerage or other compensation of any kind shall be paid, either directly or indirectly, to any person, firm or corporation for the sale of any stock of such corporation, except out of assets in excess of the minimum capital of \$15,000.00 required by this chapter. The amount of such capital stock shall not, at any time thereafter, be voluntarily reduced below the amount originally paid in, except as may be permitted and in the manner provided by chapter 221; provided, however, that the amount of such capital stock shall at all times be at least \$15,000.00. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-K. Specific powers. Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation laws of the Territory, or by any other provision of this chapter, shall possess and may exercise the following powers: (1) to borrow money upon its own secured or unsecured notes; (2) to lend money upon individual credit or upon the security of co-makers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount or other consideration as is permitted by this chapter; (3) to discount, purchase or otherwise acquire notes, instalment contracts, warehouse receipts, or other choses in action, notwithstanding the provisions of section 6745 to the contrary; (4) to establish branches within the Territory with the prior written approval of the bank examiner; and (5) to finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into for such purchases. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-L. Interest rates; other charges; refunds.

1. No industrial loan company shall directly or indirectly charge, contract for, collect or receive any interest, discount, fees, charges or other consideration on any loan made by it except as provided by this section.

2. An industrial loan company may charge, contract for, receive or collect in advance interest or discount at any rate which does not exceed the following maximum rate for the particular period and type

of contract hereinafter set forth, computed in the manner set forth in item (9) of section 6782-A, at the inception of the contract, to-wit:

(a) Where interest is paid or deducted in advance for a period of not more than 18 months upon any contract (whether the principal amount of such contract is payable in one payment at the end of the maturity period thereof or in instalments), it shall not exceed 12 per cent per annum computed in the manner set forth in item (9) of section 6782-A at the inception of the contract.

(b) Where interest is payable or deducted in advance upon a contract payable in a period of more than 18 months, it shall not exceed an amount computed in the manner set forth in item (9) of section 6782-A, as follows: 12 per cent per annum for the first 18 months, plus 9 per cent per annum for the next 12 months (or portion thereof), plus 6 per cent per annum for the next 12 months (or portion thereof), plus 3 per cent per annum for the next 6 months (or portion thereof), of such period, as the case may be.

Interest shall not be deductible in advance for more than four years.

For example, upon a contract, the principal amount of which is \$120.00, payable in 24 months, in monthly instalments of \$5.00, the maximum amount of interest which may be deducted in advance under this section is computed as follows:

12% per annum of \$120.00 for first 18 months	\$21.60
9% per annum of \$120.00 for next 6 months	5.40
Total interest deductible in advance from the principal amount of the contract	\$27.00

(c) In addition to collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly or other periodical instalments with the privilege to the company (subject to the interest refund provisions of this section where applicable) to declare the entire unpaid balance due and payable in the event of default in the payment of any instalment.

(d) In addition to requiring and collecting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of interest at not to exceed 12 per cent per annum from the date of delinquency on any principal instalment or portion thereof which remains unpaid on the date of maturity, of such instalment where there has been no extensions or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon.

3. In computing interest for any of the purposes of this section, or interest refunds under subsection 6 of this section, for any period, any fraction of a month shall be considered as a whole month.

4. Nothing in this chapter contained shall be deemed to prohibit an industrial loan company from lending money upon a contract to repay the principal amount at the end of the maturity period, instead of in instalments, under which contract interest is either deductible in advance, or is payable in weekly, monthly or other periodic instalments, or at the end of such period, provided the interest payable or paid is

not in excess of the maximum prescribed by this section for loans repayable in instalments of principal.

5. No person, firm, or corporation (not holding a license issued under this chapter) shall charge, contract for, collect or receive interest, discounts, fees, charges or other consideration on any loan in the amount or in the manner provided in this section unless permitted so to do by other territorial law.

6. On a contract which has been discounted or on which interest has been collected in advance, and which is then paid or refinanced or on which judgment is then obtained before maturity, the industrial loan company involved shall refund to the borrower on account of unearned discount or interest an amount computed, on that portion of the principal amount which has not yet matured, at the same rate of discount or interest as was charged, at the time the contract was made, for the term of such contract remaining after the date of such payment or after the date of such judgment; provided, that no refund less than 25 cents need be made. Each company shall permit any borrower from it to pay partially or wholly any contract or instalment on a contract prior to the due date, if such contract has been in effect for a period of at least three months.

7. Any payment on account of the principal amount of a contract which is due on a particular date, may be extended or deferred to a later date by mutual agreement, and, upon the amount of such principal payment so extended or deferred, interest, not exceeding that permitted upon an original loan by this section, for the actual period of such extension or deferment, may be charged and may be collected in advance at the commencement of such period of extension or deferment, provided that the term and conditions of such extension or deferment, including the principal amount so extended or deferred, and the period of, and the charge for, such extension or deferment, shall be set forth in writing and signed in duplicate by the borrower and the company, one copy of the same to be kept on file with such contract and the other copy to be given to the borrower.

8. In addition to the interest, discount or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

1. The actual taxes and fees charged by a governmental agency for recording, filing or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge or satisfaction of judgment, mortgage, lien or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract;

2. Appraisal fees, and abstractors' fees, actually paid to third parties, no portion of which fees inures to the benefit of the company;

3. Premiums actually paid for insuring real and personal property pledged as security on a contract, and insurance premiums on the life of the borrower, provided such insurance is obtained from insurance companies authorized to do and doing business in the Territory under the laws thereof and provided the borrower, if such property is adequately insured for the amount of the loan, shall not be required to

substitute other insurance therefor upon such property or to take out additional insurance thereon; and

4. Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"Sec. 6782-M. Sales considered loans. No company shall engage in the wholesale or retail mercantile business; provided, however:

1. That the taking of title to personal property, at a price below the cash market value of said personal property at the date of the transaction, and the sale of such personal property to the former owner thereof on conditional sales contract shall, for the purposes of this chapter, be considered a loan and be subject to the same restrictions as to interest, fees and other charges, as any other loan made pursuant to this chapter; and

2. That the taking over or purchase of, or the taking of title to an existing business or property for the protection of the security under a contract held by the company, and the management and operation of the same for the purpose of advantageously liquidating the same within a reasonable period and the sale or other liquidation of the same, shall not be deemed to be prohibited by this chapter. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"Sec. 6782-M-1. Making and payment of loans. Every licensee shall: (1) deliver to the borrower at the time any contract is made a statement in the English language showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest per annum on the contract. This statement shall contain such additional information as the bank examiner may require; (2) give to the borrower a plain and complete receipt for all payments of instalments made on any such loan at the time such payments are made. This statement shall contain such additional information as the bank examiner may require; and (3) upon repayment of the loan in full mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where such security does not also secure any other then existing obligation to the lender) with the word 'paid' or 'cancelled', and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to such loan (where such security does not also secure any other then existing obligation to the lender).

[Sic]

"Sec. 6782-N. Books of account; reports, forms and statements. Each company shall keep and use in its business such books, accounts and records as will enable the bank examiner to determine whether such company is complying with the provisions of this chapter and with the rules and regulations lawfully made by the bank examiner hereunder.

On or before the 31st day of January and July of each year, each company shall file with the bank examiner a report, upon a form to be prescribed and furnished by the bank examiner, of its condition, affairs and operation for the 6 months ending December 31st and June 30th, respectively, last preceding. Such report shall be verified under oath, and contain such information as the bank examiner shall

request in the forms so furnished. The foregoing provisions of this paragraph shall not be applicable to foreign corporations, but such foreign corporations shall file semi-annual reports with the bank examiner upon such forms, and within such time as he shall prescribe.

Every company shall furnish to the bank examiner such special or supplementary reports, covering all or any items or matters or classes thereof which are or might be required to be covered by a semi-annual report, in such form, at such time or times, and within such reasonable period or periods after request therefor, as the bank examiner shall deem necessary or expedient in the interest of the public. Such report or reports shall be in writing under oath.

If any officer or any person in charge of any company shall wilfully and knowingly fail to file such report or if any such report shall be wilfully and knowingly delayed or withheld beyond the day when the same should be so filed, such officer or such person shall be liable to forfeiture of the sum of \$10.00 for every day such report is so withheld or delayed or not completed, and any shareholder of any incorporated industrial loan company or any party in interest may maintain an action in his own name to enforce such penalty and the same shall be paid to the treasurer. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-O. Restrictions on business. No industrial loan company shall engage in the banking or trust company or building and loan association business. A licensee shall not charge, contract for, collect or receive interest, discounts, fees, fines, commissions, charges or other considerations in excess of the interest or discount, charges, recording and satisfaction fees, or premiums for insurance authorized by the provisions of this chapter and shall not split or divide any contract so as to obtain charges in excess of those authorized by this chapter. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-P. Penalties for violation. Any person who shall wilfully or knowingly violate any of the provisions of this chapter for which there is no other penalty specifically provided herein, shall be liable, upon conviction, to pay a fine of not less than \$10.00 nor more than \$500.00 for each such violation. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-Q. Examination by bank examiner. The bank examiner shall, at least once in each year, without previous notice, in person or by any person by him appointed, examine into the business and affairs of every industrial loan company for the purpose of ascertaining whether or not all matters of law pertaining to industrial loan companies and particularly as to interest and other charges are being complied with.

For the purpose of the examination aforesaid, the bank examiner and his assistants or any other person authorized by him to make the examination shall have free access to all books and papers of the industrial loan company, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, officers, agents or employees of any such company or any other person in relation to its affairs, transactions and conditions. He may require and compel the production of records, books, papers, contracts or other documents by court action, if necessary. Any person knowingly or

wilfully testifying falsely in reference to any matter material to said examination shall be deemed guilty of perjury and punished as in section 6114 provided, and any person who shall wilfully refuse or fail to attend, answer or produce books or papers, or who shall refuse to give said bank examiner or his assistant or the person authorized by him, full and truthful information and answer in writing to any inquiry or question made in writing by said bank examiner or assistant or the person authorized by him, in regard to the business carried on by such company, or other matters under investigation, or who shall refuse or wilfully fail to appear and testify under oath before the bank examiner, his assistant or the person authorized by him, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$500.00, or by imprisonment for not to exceed three months, or by both such fine and imprisonment. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-R. Report of examination. As soon as possible after the completion of an examination the bank examiner shall report in writing his findings to the treasurer. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-S. False entries. Any director, officer, agent or employee of any corporation, or any licensee hereunder, or agent, member or employee of any such licensee, who shall knowingly or wilfully make any false certificate, entry or memorandum upon any of the books or the papers of any company or upon any statement filed or offered to be filed in the bank examiner's office or used in the course of an examination, inquiry or investigation with the intent to deceive the treasurer or the bank examiner, or his assistants, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than six months, or by both such fine and imprisonment. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-T. Fees. The fees to be paid for examinations of industrial loan companies shall be the same as those charged for examination of banks, trust companies and all fiduciary companies as provided by section 2227; provided, that for foreign corporations such fees shall be \$20.00 per day, or the actual cost thereof whichever is the greater, but not to exceed \$250.00 for any one examination. All fees shall be paid direct to the treasurer upon receipt of a bill from the bank examiner. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-U. Not to divulge information. The treasurer, bank examiner, or his assistants, or any other person appointed by the bank examiner as provided by this chapter, shall not divulge any information acquired by them in the discharge of their duties, except insofar as the same may be rendered necessary by the provisions of this chapter or any other law or under order of court in the action involving the bank examiner or in any criminal actions or proceedings. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

“Sec. 6782-V. Preservation of records. Every industrial loan company shall preserve all its records of final entry, including cards used under the card system for a period of at least six years from the date of making the same or from the date of the last entry thereon. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"Sec. 6782-W. Other interest provisions inapplicable; effect of excessive interest."

1. The provisions of sections 7053 and 7055 shall not apply to industrial loan companies.

2. If a greater rate of interest than that permitted by this chapter shall be contracted for in any contract within the purview of this chapter, the contract shall not, by reason thereof, be void. But if, in any action on such contract, proof be made that a greater rate of interest than that permitted by this chapter has been directly or indirectly contracted for, the plaintiff shall only recover upon said contract the amount actually received by the borrower on the contract in cash, credit, or the equivalent thereof, or any combination of cash, credit or such equivalent thereof, or any combination of cash, credit or such equivalent, plus the charges (if any) which were actually incurred by the company and properly charged to the borrower under items 1 to 3, inclusive, of subsection 8 of section 6782-L, and which have not been deducted from the principal amount of the contract or otherwise paid by the borrower; and, if interest shall have been paid, judgment shall be for the aforesaid recoverable amount less the amount of interest so paid; and the defendant shall recover his costs. [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

"Sec. 6782-X. Short title. This Act shall be known and may be cited as "The Industrial Loan Act." [L. 1937, c. 231, pt. of s. 1; am. L. 1939, c. 75, pt. of s. 1.]

Section 2. Insofar as, and to the extent that, it lies within the power of the legislature so to enact, it is hereby provided that the defense of usury provided by chapter 232, and particularly by section 7053, of the Revised Laws of Hawaii 1935, shall not be available to any party in any action brought upon or arising out of any note or other contract to pay or secure the payment of money heretofore made or executed to any person, firm, association or corporation as the payee or obligee of such note or contract, which payee or obligee was duly licensed under Act 154 of the Session Laws of Hawaii 1933, or under Act 231, Series D-140, of the Session Laws of Hawaii 1937, at the time of the making of such note or other contract, if such note or contract provides for, and there has been collected thereon by such payee or obligee or the holder thereof, no greater rate or amount of interest or other charges or both, than those that would have been permitted under this Act if it had been in force when such note or contract was made.

Section 3. Insofar as, and to the extent that it lies within the power of the legislature so to enact, it is hereby provided that the defense of usury provided by chapter 232, and particularly by section 7053, of the Revised Laws of Hawaii 1935, shall not be available to any party in any action brought upon or arising out of any note or other contract to pay or secure the payment of money heretofore made or executed to any person, firm, association or corporation as the payee or obligee of such note or contract, which payee or obligee was duly licensed under Act 154 of the Session Laws of Hawaii 1933, or under Act 231, Series D-140, of the Session Laws of Hawaii 1937, at the time of making such note or other contract, upon or in which note or contract a greater amount or rate of interest or other charges or both has been contracted for or collected by the payee or holder thereof

than was permitted under the statutes in force when said note or contract was made, provided the holder thereof, within thirty days after the effective date of this Act, shall refund or credit, to the obligors on said note or contract, the excess, if any, of such interest or charges or both which has been collected over and above the interest and charges which could legally have been charged or collected under this Act if this Act had been in effect at the time such loan or contract was made, and shall not thereafter charge or collect from such obligors on account of said note or contract any interest or charges in excess of those chargeable or collectible upon a loan made under this Act.

Section 4. Insofar as, and to the extent that, it lies within the power of the legislature so to enact, it is hereby provided that no action to recover any interest or charges alleged to have been paid, or any amount alleged to have been paid as such interest or charges, by any obligor under any note or other contract made on or after the effective date of Act 154 of the Session Laws of Hawaii 1933, and before the effective date of this Act, in excess of the interest and charges which were legally chargeable or collectible under the law then in effect and applicable to the lender, shall lie or be instituted or prosecuted against any person, firm, association or corporation which was duly licensed under either said Act 154, or Act 231, Series D-140, of the Session Laws of Hawaii 1937, at the time such note or contract was made.

This section shall also apply to causes of action pending on the effective date of this Act, upon which no final judgment has been entered on said date.

Section 5. If any portion of this Act or of chapter 223A of said Revised Laws, as amended by this Act, or the application thereof to any person or circumstance, shall be held to be unconstitutional or invalid, the validity of the remaining portions of this Act or of said chapter as amended by this Act, or the application of said portion to other persons or circumstances shall not be affected.

Section 6. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 192, ACT 75.**

CHAPTER 224. INSURANCE COMPANIES AND INSURANCE LAW.

[D-160] An Act to Amend Chapter 224 of the Revised Laws of Hawaii 1935, Relating to Insurance.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 224 of the Revised Laws of Hawaii 1935 is hereby further amended in the following respects:

(a) By amending section 6790 thereof to read as follows:

“Sec. 6790. **Insurance terms defined.** In this chapter unless the context requires otherwise:

‘Adjustor’ designates an agent, or any other person who acts for or on behalf of a company or of the insured, in determining and making settlement of the amount payable to the insured for any loss or damage under the policy;

‘Alien company’ designates an insurance company organized under the laws of any country other than the United States or any political subdivision thereof;

‘Authorized company’ designates a company authorized to transact the business of insurance in the Territory;

‘Commissioner’ designates the insurance commissioner of the Territory;

‘Company’ designates a corporation, association, partnership or individual engaged in the business of insurance;

‘Direct insurance’ designates the insurance effected by the policy or other contract between the company and the insured;

‘Domestic company’ designates an insurance company organized in the Territory;

‘Firm’ designates a partnership or association engaged in the business of insurance;

‘Foreign company’ designates an insurance company organized under the laws of any state, or territory other than the Territory of Hawaii, or of the District of Columbia or of any insular possession of the United States, or of the Commonwealth of the Philippines;

‘General agent’ designates a corporation, association, partnership or individual, or an officer, member or employee of a corporation, association, partnership or individual, who is authorized by and on behalf of an insurance company to accept service of process in legal proceedings and to appoint subagents, solicitors, and otherwise transact the business of insurance, and who holds a direct agency appointment from any authorized insurance company; and shall also include the manager or other person in charge in the Territory of any branch office in the Territory of any foreign or alien company;

‘Insurance’ is an agreement whereby one party called the insurer for a consideration promises to pay money or its equivalent, or to do an act valuable to another person called the insured, or to his bene-

ficiary, upon the destruction, loss or injury of something in which the insured or his beneficiary has an interest;

‘Nonresident agent’ designates a natural person, resident in any state of the United States, who has been licensed to solicit or place insurance, other than life insurance, by the proper insurance authority in the state in which said person is a resident, and who has procured a nonresident agent’s license in the Territory to solicit or place insurance, other than life insurance, in accordance with the applicable provisions of this chapter;

‘Reinsurance’ designates the insurance ceded and accepted between two companies, one of which has effected the direct insurance;

‘Retrocession’ includes the insurance ceded and accepted between two companies, neither of which has effected the direct insurance;

‘Solicitor’ designates a natural person who for compensation aids a general agent or a subagent in the transaction of the business of insurance;

‘Subagent’ designates a corporation, association, partnership or individual, or an officer, member or employee thereof, who is authorized by and on behalf of a general agent to transact the business of insurance, and who holds a subagency appointment from any general agent licensed in the Territory;

‘Unauthorized company’ designates a company which is not, at the time in question, authorized to transact the business of insurance in the Territory;

‘Bureau’ means the insurance bureau in the department of the territorial treasurer.” [L. 1917, c. 115, s. 1; am. L. 1925, c. 122, s. 1; am. L. 1933, c. 158, s. 1; R. L. 1935, s. 6790; am. L. 1939, c. 263, pt. of s. 1.]

[**Sec. 6791. Insurance companies must comply with insurance law.**
Amended by Act 101, infra, page 283.]

(b) By amending section 6792 thereof to read as follows:

“Sec. 6792. Kinds of insurance. All domestic, foreign and alien insurance companies now or hereafter authorized to do business in the Territory may write all kinds of insurance authorized by law and by its legally authorized powers included in its charter, articles of association or other controlling instrument. The following definitions include the principal classes of insurance:

(1) Accident, health and disability. Insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto.

(2) Automobile and vehicle. Automobile insurance includes insurance of automobile or vehicle owners, users, dealers or others having insurable interests therein against hazards incident to ownership, maintenance, operation and use of automobiles or vehicles, including loss resulting from accident or physical injury, fatal or nonfatal, to, or death of, any natural person.

(3) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, or robbery.

(4) Fidelity and surety. Becoming surety or guarantor for any person, copartnership, or corporation in any position of trust or as custodian of money or property, public or private; or becoming surety or guarantor for the performance of any person, copartnership or corporation of any lawful obligation, undertaking, agreement or contract of any kind, except contracts or policies of insurance; and underwriting blanket bonds; and losses arising from forgery, fraud or other illegal or dishonest acts.

(5) Fire. Insurance against loss or damage to property and loss of use and occupancy, rents and expected profits, by fire, lightning, hail, tempest, flood, earthquake, frost, or snow, explosion fire ensuing; explosion no fire ensuing, except explosion by steam boilers or fly wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps or other apparatus, water pipes, plumbing, or their fixtures, erected for extinguishing fires, and against accidental injury to sprinklers, pumps, other apparatus, water pipes, plumbing or fixtures.

(6) Glass. Insurance against loss or damage to glass including lettering, ornamentation, and fittings.

(7) Liability. Liability insurance includes insurance against loss resulting from liability for injury, fatal or nonfatal, suffered by any natural person, or resulting from liability for damage to property, or property interests of others but not including workmen's compensation, boiler and machinery insurance, nor including any insurance defined under 'automobile and vehicle' insurance.

(8) Life. Life insurance includes insurance upon the lives of persons and insurance appertaining thereto, and incidental related benefits, and the granting, purchasing or disposing of endowments and annuities.

(9) Livestock. Insurance against loss or damage by theft, injury, sickness or death of animals, and the furnishing of veterinary service.

(10) Marine. Insurance upon vessels, freight, goods, money, effects and money lent on bottomry or respondentia against the perils of the sea, including inland transit or transportation, also war risks, strikes and other perils insured against by marine insurance.

(11) Steam boiler and fly wheel. Insurance against loss or liability to persons or property resulting from explosions or accidents to steam boilers, engines or machinery connected therewith, and from breakage of fly wheels or machinery, and to make and certify inspections thereof.

(12) Title. Insurance against loss from defective titles.

(13) Use and occupancy and profits. Insurance against loss from interruption of trade or business which may be the result of any accident or casualty other than those which may result from the causes contained under the heading of fire.

(14) Workmen's compensation. Workmen's compensation insurance includes insurance against loss from liability imposed by law upon employers to compensate employees and their dependents for injury sustained by employees arising out of and in the course or scope of the employment.

(15) Miscellaneous. Insurance against loss or damage by any hazard upon any risk, not provided for in this section, which is not prohibited by law from being the subject of insurance.

Except as otherwise stated, the enumeration in this chapter of the kinds of insurance in a particular class does not limit any such kind to any one of such particular classes, inasmuch as the classification of similar insurance may vary with the subject matter, risk, and connected insurance; but the fact that similar kinds of insurance occur in different classes does not extend or change the scope of any such class.” [L. 1917, c. 115, s. 3; R. L. 1935, s. 6792; am. L. 1939, c. 263, pt. of s. 1.]

(c) By adding at the end of paragraph numbered 2 of section 6794 thereof the following:

“He shall have power to make, amend and repeal such rules and regulations, not inconsistent with the provisions of this chapter, as in his judgment seem appropriate for the carrying out of the provisions of this chapter relating to the business of insurance, which, when approved by the governor and published once in English in a Honolulu daily newspaper of general circulation, shall have the force and effect of law.”

(d) By repealing section 6798 thereof.

(e) By amending section 6799 thereof to read as follows:

“Sec. 6799. Companies must obtain certificate of authority; business to be done only through licensed agents. No company, whether domestic, foreign or alien (or an individual), as principal, shall transact or attempt to transact any business of insurance upon risks in the Territory unless it shall first obtain a certificate of authority from the commissioner, certifying that it has complied with all the requirements of law and is authorized to transact the business of insurance in the Territory. The commissioner may refuse to issue any such certificate of authority to any company if, in his judgment, such refusal will best protect the interests of the people of the Territory. Nor shall it transact such business except through licensed agents, who are residents in the Territory (or in the case of a foreign company, acting as agent, such foreign company shall have complied with the requirements of chapter 222) and who shall receive the full commission usually paid in the Territory on business of the same classification and who, except in the case of life insurance, shall countersign all policies placed by or through them, and keep in their office at all times a complete record of all applications for and policies of insurance placed by or through them; provided, however, that the records pertaining to applications and policies may be destroyed after six years after the expiration of the policy. This section shall not apply to reinsurance nor to policies issued from the home office of any domestic company, nor shall the provisions herein respecting commissions prevent a licensed general agent of the Territory from dividing commissions with any other general agent of the Territory, licensed to write the same kind of insurance. No provision of this chapter shall be construed as prohibiting any person from procuring any insurance which is not, at the time of procuring such insurance, written by any company authorized to transact business in the Territory.” [L. 1917, c. 115, s. 10; am. L. 1925, c. 115, s. 1; R. L. 1935, s. 6799; am. L. 1939, c. 263, pt. of s. 1.]

(f) By adding thereto two new sections, to be numbered sections 6799A and 6799B, reading as follows:

"Sec. 6799A. Certificate of authority. When a domestic, foreign or alien company has complied with the requirements imposed by existing laws, and has paid the fees and charges imposed by law, and when the commissioner is satisfied that the name of the applying company is not so similar to that of another company in use in the Territory as to be likely to confuse, deceive, or mislead, the commissioner shall issue to it a certificate of authority, which shall, subject to the discretion vested in him by section 6799, expire on the following 15th day of April.

"Sec. 6799B. Resident agent's law. A foreign or alien company legally authorized to transact insurance business in the Territory shall not write, place or cause to be written or placed a policy, renewal of policy or contract for insurance (other than a contract for reinsurance) upon property situated or located in the Territory, except through a legally authorized general agent in the Territory, who shall countersign all policies so issued and enter the payment of the premium upon his record. The writing, renewing, placing or causing to be written or placed of a policy of insurance or of a contract of insurance (other than a contract for reinsurance) in any other manner or form, is a violation of the provisions of this chapter, provided, that nothing in this chapter shall prevent general agents licensed in the Territory from placing or receiving insurance with or from each other, or from receiving or paying commissions thereon from or to each other; and provided, further, that any authorized general agent, licensed in the Territory, of a company duly authorized to transact business in the Territory, may accept business from such nonresident agents only as are duly authorized and licensed as provided in this chapter, and such general agent may pay a commission thereon to such nonresident agent, but such commission shall not exceed the usual rate of commission paid to a resident solicitor."

(g) By amending paragraphs numbered 1 and 2 of section 6800 to read as follows:

"1. Qualification of insurance companies. A domestic, foreign or alien company desiring to transact business in the Territory shall file with the commissioner:

(a) Its application for a certificate of authority stating the kind or kinds of insurance it proposes to transact;

(b) A copy of its charter, articles of association, or other controlling instrument certified by the official who is required to keep or record the same in the state under the laws of which the company is organized or incorporated, or if organized or incorporated under the laws of a foreign government, province or state, by the proper official of such government, province or state;

(c) A resolution adopted by its board of directors or other governing board consenting that service of process upon the commissioner in any action or proceeding against the company brought or pending in the Territory upon any cause of action arising in or growing out of business transacted in the Territory, shall be valid service upon the company, and the consent shall be irrevocable, so long as a policy of insurance of such company shall remain in force in the Territory, or any loss remains unpaid therein.

(d) The name and business address of its authorized resident agent upon whom process may be served in all cases. Until such time as such agent's authority shall be revoked by a notice in writing filed in the office of the commissioner, service may be had upon the company by personal service upon such agent. In case a corporation is designated as an agent, service of process may be had by serving the same upon the president, vice-president, secretary, treasurer or any director thereof; and in case a firm is designated as an agent, service of process may be had by serving the same upon any member thereof. Service may be had on either the authorized agent or the commissioner. Process left with the commissioner shall be in duplicate. The commissioner shall forward at once one copy by mail to the company addressed to its principal office and the remaining copy, he shall file in his office. For the purpose of fixing the location of the principal office within the meaning of this paragraph, the company shall file with the commissioner a written statement setting forth the location and post office address of its principal office and that location and post office address shall continue to be the location and post office address of the company for the purposes of this paragraph until changed by a similar statement in writing filed with the commissioner. Where service is had on the commissioner, no proceedings other than for the granting of a temporary restraining order or a temporary injunction shall be had within sixty days after the service.

(e) A statement of its financial condition and business in such form as prescribed by this chapter for annual statements, signed and sworn to by the president and secretary or other principal officers of the company. If an alien company, which has a United States branch, the statement shall comprise only its condition and business in the United States and shall be signed and sworn to by its United States manager or like representative in the United States.

(f) A copy of the last report of examination (must be within five years) certified to by the insurance commissioner of the state in which said company is organized, or if an alien company having a United States branch, by the commissioner of the state in which said branch is located, or other proper supervisory official, provided, however, that the commissioner may cause an examination to be made of the conditions and affairs of such company before authority to transact business in the Territory is given. If the certified report of examination is that of a United States branch office, the said certified report of examination must be accompanied by a certified statement of the financial condition of the home office.

(g) A certificate of compliance showing that the company is duly organized under the laws of the state, province, or government under the laws of which it professes to be organized and authorized to do the business it is transacting or proposes to transact, and if a stock company, that it has a paid up capital and surplus at least equal to the capital and surplus required of a domestic company which writes the same kinds of insurance. If a mutual company, a reciprocal or inter-insurance exchange, that it has assets at least equal to the assets required of a domestic company which writes the same kind or kinds of insurance. If an alien company, that it has a deposit of assets, held in the United States in trust for the benefit and security of all its policy holders in the United States, over all its liabilities in the United States, of an amount equal to the minimum capital and surplus required of a like domestic company. This certificate

of compliance shall also state the date upon which the last examination of the company was made and the name of the department or authority that made the examination.

(h) If an alien company, a deposit with the commissioner of approved securities of the amount and value of at least one hundred thousand dollars or satisfactory proof to the commissioner that it has on deposit with some insurance department in the United States securities of the amount and value of one hundred thousand dollars, for the benefit and security of all policy holders and creditors of such company in the United States, and the company shall file with the commissioner a certificate of such department certifying to such deposit. The securities so deposited shall always be in such amount that the market value equals or exceeds the sum of one hundred thousand dollars. Subject to the same condition that its market value shall always be not less than one hundred thousand dollars, a deposit may be made with the treasurer of the Territory in securities prescribed by law for the investments of domestic insurance companies. No deposit in the United States shall be withdrawn until all liabilities secured by the deposit shall have been fully paid or shall have been reinsured in companies or societies authorized to transact the same kinds of business in the states, districts or territories where the liabilities exist.

(i) An application for the appointment of a general agent.

(j) A power of attorney or other instrument which authorizes the general agent to appoint subagents and solicitors for the applicant in the Territory.

(k) A good and sufficient bond signed by the company as principal with a surety, which must be a surety company authorized to do business in the Territory, to be approved by the commissioner and running to the commissioner and to his successors in office, in the sum of twenty thousand dollars with the condition that the surety on the bond shall be answerable in the amount of the bond for all judgments, decrees, or orders given, made or rendered against the principal on the bond by any court in the Territory for the payment of money. In case of any breach of the condition of any bond, the commissioner may, and upon demand and receipt of satisfactory assurance for the payment of costs, shall, enforce the bond either in his own name or in the name of any interested person by appropriate proceedings in any court of competent jurisdiction for the use and benefit of any person injured by the breach. The surety on the above bond may withdraw from the same upon giving to the commissioner written notice of its intention to withdraw not less than sixty days prior to the date on which the then existing certificate of authority of such company is to expire, such withdrawal to be effective on the date of such expiration; provided, however, that such surety shall remain liable on the bond for all judgments, decrees or orders given, made or rendered against the principal, based upon any obligation or liability incurred thereon.

"2. Continuing qualification of insurance companies. A foreign or alien company doing business in the Territory (a) shall submit to a personal examination of its affairs by the commissioner, which he may waive if there is filed with him a copy of a report of an examination made within five years by some insurance department in the United States or by other authority satisfactory to the commissioner, which copy must be certified to by said insurance department or other

authority; (b) shall file with the commissioner a certified copy of all amendments to its charter, articles of association or other controlling instrument and by-laws; (c) except in the case of a mutual insurance company, shall have the paid-in capital and surplus required of a domestic insurance company organized and authorized to transact business in the Territory; and (d) shall furnish such information as may be requested by the commissioner from time to time."

(h) By repealing paragraph numbered 3 of said section 6800.

(i) By adding thereto two new sections, to be numbered sections 6800A and 6800B, reading, respectively, as follows:

"Sec. 6800A. Consolidation of foreign or alien companies. Where the articles of association or charter or certificate of authority of any foreign or alien company is revoked in the state or country in which it is organized or where a foreign or alien company is merged or consolidated with another company and a new corporation is thereby formed, or where the business of such company is entirely reinsured in another foreign, alien or domestic company, its certificate of authority in the Territory shall be revoked by the commissioner, but the new company, the successors of the old company, or the reinsurance company, as the case may be, shall remain liable on all existing risks in the Territory until full settlement of all claims and termination of said risks, and service of process when made upon the commissioner shall be deemed sufficient service upon the new company, successors of the old company, or the reinsurance company, as the case may be.

"Sec. 6800B. Withdrawal of a foreign or alien company. A foreign or alien company authorized to do business in the Territory desiring to withdraw from the Territory must first file an affidavit with the commissioner showing that:

(1) It desires to withdraw from the Territory, and to discontinue business in the Territory.

(2) All of its outstanding policies have been either reinsured or have expired, and if reinsured, file an affidavit by the reinsurance company, which must be a company authorized to carry on the business of insurance in the Territory, stating that it has reinsured all the outstanding policies of the withdrawing company upon risks in the Territory, or upon business originating in the Territory.

(3) All existing claims in the Territory have been paid in full.

Said company shall return for cancellation its current certificate of authority and licenses for general agents issued by the commissioner."

(j) By amending section 6804 thereof to read as follows:

"Sec. 6804. No agent to transact business without a license. No corporation, firm or individual shall do or perform any act as agent or advertise or hold itself or himself out as a general agent, subagent, or solicitor for any kind of insurance with respect to risks located within the Territory and required to be transacted through licensed agents, without holding a license then in force, but a license issued to a corporation, firm or individual shall be sufficient for all employees thereof except those employees actually engaged in the solicitation of insurance, who shall be required to take out a solicitor's license and comply with the provisions of this chapter applicable to solicitors."

[L. 1917, c. 115, s. 15; R. L. 1935, s. 6804; am. L. 1939, c. 263, pt. of s. 1.]

(k) By amending section 6805 thereof to read as follows:

"Sec. 6805. Application for license as general agent, subagent or solicitor. No license shall be issued to any applicant for a general agent's, subagent's or solicitor's license until such applicant shall have first made and filed in the commissioner's office an application therefor upon a form to be prescribed by the commissioner which must be verified by the applicant and shall set forth the following information, together with such other information as the commissioner may require:

(1) The name, age, business and residence address of the applicant, and if the applicant is a firm or corporation, the name and address of each member or officer thereof designated to act for applicant; the capacity, whether as general agent, subagent or solicitor, which applicant proposes to assume.

(2) If an individual, his present occupation, occupation for last twelve months, portion of time to be devoted to the work, previous insurance experience and the name of employers during five years next preceding.

(3) Whether any insurance company or agent claims such applicant is indebted under any agency contract or otherwise, and, if so, the name of the claimant, the nature of the claim and the applicant's defense thereto, if any.

(4) Whether he has had an agency contract cancelled for cause, and, if so, when, by what company or agent and the reason therefor.

(5) Whether the applicant has at any time been found guilty by a court of competent jurisdiction of a violation of the laws of the United States, or of the Territory or any state of the United States or any other jurisdiction and whether the applicant has at any time misappropriated or converted moneys of others to his own use or has at any time in a fiduciary capacity illegally withheld moneys. Full information concerning any such violation shall be submitted with the application.

(6) That the principal use of such license is not to effect insurance on the applicant's own life, property or risks or on the life, property or risks of his employer, or to circumvent or violate the anti-rebate provisions of this chapter." [L. 1917, c. 115, s. 16; R. L. 1935, s. 6805; am. L. 1939, c. 263, pt. of s. 1.]

(1) By adding thereto five new sections, to be numbered 6805 A to E inclusive, and reading as follows:

"Sec. 6805A. [Application for agent's or solicitor's license.] Each applicant for a general agent's, subagent's, or solicitor's license shall be required to file but one application, regardless of the number of companies he is to represent; provided:

(1) That no applicant, successful in the examination hereinafter prescribed or otherwise qualified under the provisions of this chapter, shall act as general agent, subagent or solicitor, unless and until such

license or the temporary license herein provided shall be issued to the applicant. A general agent's license shall be issued only at the request of an insurance company authorized to do business in the Territory and which has paid the general agent's license fee required by law. A subagent's license shall be issued only at the request of a general agent authorized to do business in the Territory and which has paid the subagent's license fee required by law. A solicitor's license shall be issued only at the request of a general agent or of a subagent to be represented, who is licensed and has paid the solicitor's license fee required by law.

(2) That no solicitor shall be licensed to represent more than one general agent or one subagent; provided, however, that the provisions of this subparagraph shall not apply to any person who holds a license as agent under the laws of the Territory at the time this section becomes effective.

(3) That pending examination as herein provided or qualification in accordance with the provisions of subsection (4) hereof, the commissioner may issue a temporary license to an applicant to act as a general agent, subagent or solicitor, effective for a period not extending beyond ten days after the results of the next succeeding examination are announced, if such applicant be otherwise qualified and be certified by an official, or licensed representative, of a company. No further such temporary license shall be issued to any person failing to pass such examination or failing so to qualify.

(4) That in lieu of the examination provided for in section 6805C, an applicant for a license as general agent, subagent or solicitor of an insurance company may be certified by an official or licensed representative of such company as having completed and been satisfactorily examined upon a course of study required by the company of its licensed agents or has completed and been satisfactorily examined upon a duly recognized course of study approved by the commissioner; provided, that a license shall not be issued to such applicant unless and until a copy of his examination papers, duly certified by such official or licensed representative has been filed with the commissioner and the character and results of such examination found satisfactory by him. In case he shall disapprove of such examination or the results thereof, he may require such applicant to take the examination prescribed in section 6805C.

"Sec. 6805B. [Additional conditions.] No general agent's, subagent's or solicitor's license shall be granted or renewed for any person, firm, or corporation unless the commissioner shall have been satisfied that such license is not being requested exclusively for the purpose of insuring the life, property or risks of such person, firm or corporation, or the life, property or risks of such person's immediate family or employer. In the case of renewal, this shall be construed to mean that during the year preceding the application for such renewal, the licensee seeking such renewal shall have written or placed insurance totaling a volume of premiums on insurance for others, greater than the total volume of premiums on insurance which the said licensee shall have written or placed upon his own property or risks or upon the life, property or risks of his employer or immediate family or both.

"Sec. 6805C. [Examination.] If the applicant has not, prior to the date of application for license, been licensed in the Territory for at least one year as a general agent, subagent or solicitor, either indivi-

dually or as a member or officer of a firm or corporation holding a license, the commissioner shall, except as provided in section 6805A (3) hereof, require such applicant, if a person, and one or more members or officers designated by it if a firm or corporation, to submit to a written examination covering all the kinds of insurance or contracts which the license, if granted, will permit the applicant to offer. Each application for license calling for an examination as in this section prescribed, must be accompanied by an examination fee of five dollars, which fee shall pay for all examinations conducted during a period of one year. All examinations provided for by this section shall be conducted under the rules and regulations prescribed from time to time by the commissioner. The commissioner may appoint an examiner or examiners for purposes of such examination. Examinations shall be held not less frequently than four times a year, at times and places designated by the commissioner, notice of which shall be published in English in a Honolulu daily newspaper of general circulation in the Territory at least twenty days prior to such examination. Printed copies of a manual of questions pertaining to the examination, published under the direction of the commissioner, shall be made available to all companies, general agents or subagents for use of their prospective applicants in preparing for the examination. The questions to be asked shall be based upon the questions contained in the manual. Success in passing the examination shall be determined by the commissioner or by the examiners appointed by him.

All examination fees collected by the commissioner shall be general territorial realizations.

"Sec. 6805D. [Revocation of license.] A license may, after notice and hearing and subject to appeal to the circuit court of the first judicial circuit under the procedure and rules as laid down from time to time by the laws of the Territory, or the courts pertaining to appeals to the circuit courts from the award of the industrial accident boards, be denied, revoked, or the renewal thereof refused by the commissioner if he finds that the holder of or the applicant for such license:

- (1) Has wilfully violated any provisions of the insurance laws; or
- (2) Has intentionally made a material misstatement in the application to qualify for such license; or
- (3) Has obtained or attempted to obtain a license by fraud or misrepresentation; or
- (4) Has been guilty of fraudulent or dishonest practices; or
- (5) Has misappropriated or converted to his own use or illegally withheld moneys required to be held in a fiduciary capacity; or
- (6) Has materially misrepresented the terms and conditions of policies or contracts of the company he represented; or
- (7) Has made any misrepresentation or incomplete comparison of life insurance policies, oral, written, or otherwise, to any person insured in any company for the purpose of inducing or intending to induce a policy holder in any company to lapse, forfeit or surrender his insurance therein, and to take out a policy in another company insuring against similar risk; or

- (8) Has been guilty of rebating; or
- (9) Has conducted his business in such a manner as to cause injury to the public or to those with whom he is dealing; or
- (10) Has been convicted of a felony, or a misdemeanor involving moral turpitude, unless such person has received a full pardon, or presents satisfactory proof to the commissioner that for five years next preceding the date of his application he has lived an upright and moral life.

"Sec. 6805E. [Renewals.] Every license except a temporary license issued to a general agent, subagent or solicitor shall expire on the 15th day of April next after its issue, but any license issued and in force when this section takes effect or thereafter issued, may, in the discretion of the commissioner, be renewed for a succeeding year or years by a renewal certificate without the commissioner requiring the detailed information prescribed by this chapter."

- (m) By amending section 6806 thereof to read as follows:

"Sec. 6806. License required. No company or individual, except as provided in section 6807, shall procure, receive or forward applications for insurance unless a resident of the Territory, and duly licensed by the commissioner." [L. 1917, c. 115, s. 17; R. L. 1935, s. 6806; am. L. 1939, c. 263, pt. of s. 1.]

- (n) By amending section 6807 thereof to read as follows:

"Sec. 6807. Nonresident agent's license. The commissioner, upon the payment of ten dollars, may issue to any suitable natural person, resident in any state of the United States, who has been licensed to solicit or place insurance other than life insurance by the proper insurance authority in the state in which said person is a resident, a nonresident agent's license to place insurance other than life insurance in the Territory, with any qualified domestic insurance company in the Territory, or its general agent in the Territory, or with the licensed general agent in the Territory of any foreign or alien insurance company duly admitted to do business in the Territory, and not otherwise, and upon the further following conditions: The applicant for such a license shall file with the commissioner an application which shall be in writing upon a form to be provided by the commissioner, and shall be executed by the applicant under oath and kept on file by the commissioner. Such application shall state the name, age, residence, place of business and occupation of the applicant at the time of making application, occupation for the five years next preceding the date of filing the application, that the applicant has read and is familiar with the insurance laws of the Territory and that the applicant intends to hold himself out and carry on the business of soliciting or placing insurance in good faith, and furnish the information as to whether or not the applicant has ever been refused a license to transact insurance business in any state or Territory of the United States, and whether or not the license of the applicant to do business has ever been revoked or suspended in any state or Territory of the United States, and whether or not the applicant has any direct financial interest in any general agent, subagent or solicitor licensed in the Territory, and whether or not the applicant has any direct, indirect, exclusive, special, partial or other interest in or control or management of any general agent, subagent or solicitor licensed to transact

insurance business in the Territory, and shall furnish such other information as the commissioner may request so that the commissioner may determine the trustworthiness, competency and suitability of the applicant to act as a nonresident agent as herein provided. The application shall be accompanied by a certified copy of the insurance license issued to the applicant by the insurance authority of the state in which the applicant is a resident, and a statement to the commissioner as to the trustworthiness and competency of the applicant signed by at least one reputable citizen of the Territory who is authorized to engage in the insurance business in the Territory. If the commissioner is satisfied that the applicant is trustworthy, competent and suitable according to the provisions hereof and intends to hold himself out and carry on the business of soliciting or placing insurance in good faith in the state in which the applicant is a resident and as a nonresident agent according to the provisions hereof, he shall issue the license to the applicant, but no license shall be issued hereunder to any applicant who has any direct or indirect financial interest in any general agent, subagent or solicitor licensed in the Territory, nor to any applicant who has any direct, indirect, exclusive, special, partial or other interest in or control or management of any general agent, subagent or solicitor licensed to transact insurance business in the Territory. The licensee shall not solicit insurance directly or indirectly in the Territory or by or through a representative in the Territory, and is only authorized to place insurance in the Territory which the licensee has directly procured from the assured outside of the Territory. The commissioner may at any time after the granting of a nonresident agent's license, for cause shown and after an investigation and notice to the licensee, determine that the licensee has not complied with the requirements hereof or with the insurance laws of the Territory, or is not trustworthy or competent, or is not holding himself out and actually carrying on the business of soliciting or placing insurance in good faith as a nonresident agent, or has solicited insurance directly or indirectly in the Territory, or by or through a representative in the Territory, or has placed insurance in the Territory which the licensee did not directly procure from an assured outside of the Territory, and shall thereupon revoke the license of such nonresident agent." [L. 1917, c. 115, s. 18; R. L. 1935, s. 6807; am. L. 1939, c. 263, pt. of s. 1.]

(o) By amending section 6808 thereof to read as follows:

"Sec. 6808. Contract outside of policy and rebating prohibited.
(1) No insurance company nor any general agent, subagent or solicitor shall make any contract or agreement with reference to any insurance other than is plainly expressed in the policy.

(2) In writing or attempting to write insurance on any risk in the Territory, no insurance company or general agent, subagent or solicitor shall, as an inducement to securing such business or after the obligation has been incurred, pay, allow or give, or offer to pay, allow or give, nor shall any person receive, any rebate of premium payable on a policy or any special advantage in dividends or other benefits, paid employment or contract for services or any valuable consideration or inducement of any kind not specified in policies of like class, or give, sell, or purchase, or offer to give, sell or purchase anything of any value whatsoever, not specified in policies of like class.

(3) Nothing in this section shall prevent:

(a) A licensed general agent of the Territory from dividing commissions with any other general agent of the Territory licensed to write the same kind of insurance.

(b) A licensed general agent, subagent or solicitor of the Territory from writing insurance on his own property or person, and receiving commissions from the writing of such insurance.

(c) The distribution of savings, earnings or surplus equitably among a class of policy holders.

(d) The furnishing of information, advice or services for the purpose of reducing the loss or liability to loss.

(4) Notwithstanding any violation of this section, the policy shall be valid, but any company, general agent, subagent or solicitor who violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not exceeding one hundred dollars for each and every violation, or in the discretion of the court, to imprisonment for a period not exceeding six months, or both." [L. 1917, c. 115, s. 19; R. L. 1935, s. 6808; am. L. 1939, c. 263, pt. of s. 1.]

(p) By amending section 6809 thereof by adding thereto a new paragraph to be numbered 3., reading as follows:

"3. Incorporating into the policy or contract any provision for the payment of any moneys thereunder in terms of foreign currency."

(q) By amending section 6810 thereof to read as follows:

"Sec. 6810. Annual requirements. All domestic, foreign, or alien companies doing business in the Territory shall annually, not later than April 15th, file with the commissioner the following:

(1) Annual statement of financial condition for the year ending December 31st immediately preceding, which statement shall conform as nearly as possible to the form of statement adopted by the national convention of insurance commissioners. The commissioner shall have authority to extend the time for filing such statements by any such company for reasons which he shall deem good and sufficient, provided such extension shall not exceed ninety days.

(2) An application for the renewal of its certificate of authority.

(3) An annual statement for tax purposes showing all business transacted in the Territory.

(4) An application for the renewal of all general agents' licenses.

In addition to the above requirements, foreign and alien companies shall be required to file the following:

(5) A certificate of compliance as set forth in paragraph 1 (g) of section 6800.

(6) A certificate of deposit showing the deposit required by paragraph 1 (h) of section 6800.

(7) A certified report of examination of its affairs made within five years by some state insurance department or other authority acceptable to the commissioner, if such a report is not already on

file, or submit to an examination by the commissioner or by such examiners as may be appointed by him." [L. 1917, c. 115, s. 21; R. L. 1935, s. 6810; am. L. 1939, c. 263, pt. of s. 1.]

(r) By amending section 6813 thereof to read as follows:

"Sec. 6813. [Over-insurance and over-payment of loss prohibited; penalty.] No insurance company, general agent, subagent or solicitor shall knowingly and wilfully make or effect any insurance against loss or damage to property in the Territory, which, together with any insurance of the same kind already in force upon the property, shall be in excess of the cash value of the property insured. This provision shall not apply to any insurance against liability nor to any insurance against loss or damage other than to property. No insurance company, general agent, subagent, solicitor or adjustor shall knowingly and wilfully adjust, allow or pay for any loss or damage to property any sum in excess of the actual loss and damage ascertained or estimated according to the actual cash value. Any company, general agent, subagent, solicitor or adjustor violating this section shall be penalized for the first offense one hundred dollars, to be paid to the treasurer of the Territory, through the commissioner, which sum shall be sued for and collected as in case of other forfeitures and become general territorial realizations; for the second offense, in addition to the penalty of one hundred dollars, its certificate of authority, agent's license or adjustor's license, as the case may be, may be cancelled." [L. 1917, c. 115, s. 24; R. L. 1935, s. 6813; am. L. 1939, c. 263, pt. of s. 1.]

(s) By amending section 6814 thereof to read as follows:

"Sec. 6814. Organization of domestic insurance companies. (1) Except as otherwise provided, domestic insurance companies shall be subject to the provisions of this chapter, and except those companies formed on the inter-insurer or Lloyd's plan, shall be organized under the general laws of the Territory applicable to the organization of corporations.

(2) Insurance companies organized under the laws of the Territory and authorized to transact business therein prior to the effective date of this section may continue to transact business under the laws theretofore in force as to capital, surplus and kinds of insurance which may be transacted.

(3) Any domestic insurance corporation, other than mutual, organized after said date shall have a minimum paid-in capital of one hundred thousand dollars, which shall be sufficient for the transaction of any one kind of insurance. For each additional kind of insurance transacted, there shall be an additional paid-in capital of fifty thousand dollars, but any company having a paid-in capital of three hundred fifty thousand dollars may transact any or all kinds of insurance authorized by law. In addition to the paid-in capital, it shall have a paid-in surplus at least equivalent to twenty-five per centum of such capital.

(4) Any number of persons, not less than five, at least a majority of whom shall be residents of the Territory, may file an application with the commissioner for authority to organize an insurance company, or for authority to circulate a stock subscription list for the organization of an insurance company. The applicants shall pay to

the commissioner at the time of their application a fee of one hundred dollars, which fee shall in no case be refunded. No persons shall organize an insurance company or circulate a stock subscription list for the organization of an insurance company until written authority for that purpose has been obtained from the commissioner. The application shall be in duplicate and shall specify to the extent then determined in regard to the proposed insurance company:

- (a) The proposed location of its principal office; the proposed amount of paid-in capital; the proposed corporate name which shall include the word 'insurance';
- (b) The proposed articles of association showing the kind or kinds of insurance business which it is proposed the new company shall transact;
- (c) The names of the proposed subscribers to capital stock and the amount of stock to which each will probably subscribe; the names of the persons, partnerships, associations or corporations which propose to own or control more than one-half of the capital stock; the names of the proposed active officers and directors;
- (d) Evidence of the character, financial responsibility, business experience and business ability of the proposed incorporators, directors and officers and the various positions in business held by each for the period of five years before the date of the application;
- (e) Any other information which the commissioner may require.

(5) The applicant shall publish notice of the filing of such application at least once a week for three consecutive weeks, in English, in a daily newspaper of general circulation in the Territory, such newspaper to be designated by the commissioner. Such notice shall be in a form approved by the commissioner and shall state the fact that an application has been filed and the date thereof; the proposed corporate name; the address where it is proposed its principal office will be located; the kind or kinds of insurance business which the company proposes to transact; the amount of proposed paid-in capital; the names of the applicants; the names of the proposed active officers and directors; the time and place appointed by the commissioner for the hearing of said application.

The first publication of notice shall be made within ten days of the date of the filing of the application, and proof of publication shall be filed with the commissioner on or before the date appointed for the hearing.

(6) Upon the hearing of the application, the commissioner shall make investigation of the facts referred to in the application or pertinent to the granting of such application and hear any objections thereto. At any such hearing, the burden of proof shall be upon the applicants. The commissioner's rules and regulations may provide for the proceedings in connection with such hearing.

Should the result of the hearing satisfy the commissioner:

- (a) That the proposed insurance company is to be formed for legitimate objects as contemplated by this chapter;
- (b) That the character, financial responsibility and general fit-

ness of the persons named in such application are such as to command the confidence of the community and to warrant the belief that the business of the proposed insurance company will be honestly and efficiently conducted;

(c) That the proposed directors and officers are competent successfully to manage an insurance business of the kind or kinds proposed to be conducted;

Then the commissioner shall approve the application and shall endorse on each of the duplicate-original applications the date and the word 'approved' over his official signature;

But if the commissioner is not so satisfied he shall endorse with the date the word 'disapproved' thereon. One of the duplicate-original applications shall be filed in his office and the other returned by mail to the applicants. The commissioner may grant a conditional approval of any application requiring the applicants to make such additional showing or such changes in the proposed insurance company as he may consider advisable.

(7) Within ninety days after the date of the granting of final approval of the petition, the incorporators shall file articles of association in the office of the treasurer of the Territory and pay the filing fees required by law.

(8) The commissioner shall not authorize the corporation to transact any insurance business until a verified certificate shall have been filed with him showing that the capital and surplus as required by law have been paid into the corporation in full and are held by the corporation free from any liability to pay therefrom any cost or expense of organization." [L. 1917, c. 115, s. 25; R. L. 1935, s. 6814; am. L. 1939, c. 263, pt. of s. 1.]

(t) By amending section 6815 thereof to read as follows:

"Sec. 6815. Supervision of domestic insurance companies. (1) The commissioner shall at least once in three years or oftener visit each domestic insurance company and make a detailed examination into the affairs and condition of the company.

(2) Every domestic company shall keep its books, records, accounts and vouchers in such manner that its financial condition can be ascertained, and so that its financial statements filed with the commissioner can be readily verified and its compliance with this chapter determined. It shall produce its books and all papers in its possession relating to its business or affairs, and any other person may be required to produce any book or paper in his custody deemed to be relative to the examination, for the inspection of the commissioner, his deputies or examiners whenever required; and the officers and agents of such company shall facilitate such examination and aid the examiners in making the same insofar as is possible.

(3) Every examiner shall make a full and true report of every examination made by him, which shall comprise only facts appearing upon the books, records or documents of such company, or ascertained from testimony, sworn to, of its officers or agents or other persons examined under oath, and such conclusions and recommendations as may reasonably be warranted from such facts, and said report when filed with the commissioner shall be evidence in any action or pro-

ceeding in the name of the Territory against the company, its officers or agents, of the facts stated therein." [L. 1917, c. 115, s. 26; R. L. 1935, s. 6815; am. L. 1939, c. 263, pt. of s. 1.]

[Sec. 6819. Investments of domestic insurance companies. Amended by Act 165, infra, page 284.]

(u) By amending section 6829 thereof to read as follows:

"Sec. 6829. [Proceeds of insurance policy exempt from execution, etc., exceptions.] All proceeds payable because of the death of the insured and the aggregate net cash value of any or all life and endowment policies and annuity contracts payable to a wife or husband of the insured, or to a child, parent or other person dependent upon the insured, whether the power to change the beneficiary is reserved to the insured or not, and whether the insured or his estate is a contingent beneficiary or not, shall be exempt from execution, attachment, garnishment or other process, for the debts or liabilities of the insured incurred subsequent to the effective date of this section, except as to premiums paid in fraud of creditors within the period limited by law for the recovery thereof." [L. 1917, c. 115, s. 39; R. L. 1935, s. 6829; am. L. 1939, c. 263, pt. of s. 1.]

(v) By amending the first sentence of section 6831 thereof to read as follows:

"Every insurance company authorized to effect fire insurance or automobile and vehicle insurance, herein called 'insurer', shall be a member of or maintain a rating bureau."

[Sec. 6839. Commissioner as territorial fire marshal; subordinates; powers and duties. Amended by Act 239, infra, page 285.]

(w) By amending section 6849 thereof to read as follows:

"Sec. 6849. Fees. The commissioner shall require payment in advance of the following fees:

For filing articles of incorporation, or certified copies of articles or by-laws.....	\$ 25.00
" issuing certificates of authority.....	10.00
" each renewal certificate of authority.....	10.00
" filing the annual statement of condition.....	10.00
" filing each annual statement of business transacted in the Territory.....	10.00
" filing any other certificate required to be filed by this chapter.....	10.00
" filing any other paper.....	1.00
" furnishing copies of papers filed in the office, per folio.....	.25
" certifying copies, each.....	1.00
" each general agent's license for each company represented	2.00
" each subagent's license issued or renewed.....	2.00
" each solicitor's license issued or renewed.....	2.00

All moneys collected under this section shall be deposited by the treasurer of the Territory in the general fund. The expenses of examinations for the qualification of agents and for printing a new edition of the insurance law shall be paid out of appropriations for the bureau." [L. 1917, c. 115, s. 58; am. L. 1919, c. 100, s. 5; R. L. 1935, s. 6849; am. L. 1939, c. 263, pt. of s. 1.]

(x) By amending section 6850 thereof to read as follows:

"Sec. 6850. Annual tax statement; taxes, penalty. All insurance companies doing business in the Territory must file with the commissioner annually, on or before the 15th day of April in each year, a statement, under oath, setting forth the total business transacted and the amount of gross premiums received by the companies, during the year ending December 31 next preceding from all risks located in, and all business done within the Territory. The term 'gross premiums' as used in this section shall not include consideration paid for annuities. All insurance companies, except life insurance companies, shall pay to the treasurer, through the insurance commissioner, a tax of two and one-half per centum on the gross premiums received from all risks located in, and from all business done within, the Territory, during the year ending on the preceding 31st day of December, less return premiums and reinsurance in companies authorized to do business in the Territory when the reinsurance is placed through or with local agents; and all life insurance companies shall pay to the treasurer, through the insurance commissioner, a tax of two and one-fourth per centum on the gross premiums received from all business done within the Territory, during the year ending on the preceding 31st day of December, less return premiums, cash surrender values paid, dividends paid or credited to policy holders and reinsurance in companies authorized to do business in the Territory when the reinsurance is placed through or with local agents, which taxes when paid shall be in settlement of all demands for taxes, licenses or fees of every character imposed by the laws of the Territory, excepting property taxes, and the fees set forth in section 6849 for conducting the business of insurance in the Territory. Such taxes shall be due and payable on the 30th day of June, succeeding the filing of the statement provided for in this section. Any organization failing or refusing to render said statement and to pay the required taxes above stated, for more than thirty days after the time so specified, shall be liable to a penalty of twenty-five dollars for each day of delinquency, and the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of the Territory, in any court of competent jurisdiction, and the commissioner may suspend the certificate of authority of the delinquent organization until the taxes and fine, should any be imposed, are fully paid." [L. 1917, c. 115, s. 59; am. L. 1932, 2d, c. 46, s. 1; R. L. 1935, s. 6850; am. L. 1939, c. 263, pt. of s. 1.]

(y) By adding thereto a new section, to be numbered section 6850A, reading as follows:

"Sec. 6850A. Refunds. Whenever it shall appear to the satisfaction of the commissioner that because of some error, mistake or because of an erroneous interpretation of a statute, a company, general agent, subagent, solicitor or any other person has paid to him pursuant to any of the provisions of this chapter, taxes, fines, penalties or fees in excess of the amount legally chargeable against it, he shall have power to refund to such company, general agent, subagent, solicitor or person any such excess payment by applying the amounts thereof toward the payment of taxes, fines, penalties or fees already due, or which may hereafter become due from such company, general agent, subagent, solicitor or person until such excess payments have been fully refunded, or he shall authorize the refund of said excess payments out of the general funds of the Territory by submitting a voucher therefor to the auditor of the Territory; but said commissioner shall

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not be relieved of the responsibility for such refund until the same shall have been properly audited and the legality thereof determined by the auditor acting in conjunction with the attorney general."

Section 2. If any portion of this Act, or of any other law as amended by this Act, or its application to any persons or circumstances, is held unconstitutional or invalid, the validity of the remainder of this Act or of said other law, or the application of said portion to other persons or circumstances, shall not be affected.

Section 3. This Act shall take effect upon its approval, provided, that section 6850, as herein amended, shall take effect as of January 1, 1940, and shall be applicable to all tax statements filed on or after January 1, 1940.

(Approved May 19, 1939.) **S.B. 84, Act 263.**

[D-161] An Act to Amend Section 6791 of the Revised Laws of Hawaii 1935, Relating to the Compliance by Certain Companies with the Insurance Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6791 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"See. 6791. Insurance companies must comply with insurance law. A company engaged in the business of insurance, of a suretyship or of guaranteeing against liability, loss or damage, or of entering into contracts substantially amounting to insurance, shall be deemed an insurance company and shall not transact such business unless the business is authorized or permitted by the laws of the territory, and all laws regulating the same and applicable thereto have been complied with; provided, however, that this section shall not be construed to apply to bonds with respect to which no premium is charged or paid or to bonds or contracts or undertakings in the performance of which the surety has an interest, or to any plan or agreement between an employer and any of his employees by the terms of which the employer and any employee agree to contribute to the cost of medical attention, treatment or hospitalization of the agreeing employee or members of his family." [L. 1917, c. 115, s. 2; am. L. 1925, c. 122, s. 2; R. L. 1935, s. 6791; am. L. 1939, c. 101, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1939.) **H.B. 205, Act 101.**

[D-162] An Act to Amend Section 6819 of the Revised Laws of Hawaii 1935, Relating to Investments of Domestic Insurance Companies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 2 of section 6819 of the Revised Laws of Hawaii 1935, is hereby amended by amending subsection (b) of said paragraph 2 to read as follows:

“(b) Secured bonds; mortgage loans. Bonds or notes secured by first mortgages or deeds of trust upon either improved or productive real estate or any interest therein and improvements thereon, which improvements may be or include those to be placed thereon by means of the loan; provided that the value of the total security shall, at the time of the investment, be at least fifty per centum more than the principal of the obligations secured by such mortgages or deeds of trust;”.

Section 2. Paragraph 2 of section 6819 of the Revised Laws of Hawaii 1935, is hereby further amended by amending subsection (c) of said paragraph 2 to read as follows:

“(c) Government bonds. Interest-bearing bonds, notes or obligations of the United States or of the Dominion of Canada, and all bonds and obligations guaranteed by the United States or the Dominion of Canada as to payment of principal and interest; interest-bearing bonds, treasurer's warrant notes or other obligations of the territory or any county or city and county of the territory or of the board of water supply of the City and County of Honolulu; bonds of any state or incorporated territory of the United States or of any province of the Dominion of Canada, or of any county, school district, incorporated city or town, or of any water district, flood control district, sanitary district, municipal utility district or any other similar district, or of any other political subdivision of any such state, incorporated territory or province; provided that such county, school district, city, town, district or political subdivision has a population of not less than twenty-five thousand inhabitants as shown by the federal or Canadian census next preceding the date of such investment; and provided, further, that there has been no default in the payment of either principal or interest on any of the general obligations of such state, territory, province, county, school district, city, town, district or political subdivision for a period of five years next preceding the date of such investment;”.

Section 3. Paragraph 2 of section 6819 of the Revised Laws of Hawaii 1935, is hereby further amended by amending subsection (d) of said paragraph 2 to read as follows:

“(d) Utility bonds. Bonds and notes of any railroad, street railway or public utility operating in the United States or any incorporated territory or in the Dominion of Canada, which bonds or notes bear fixed interest, if, during each of any three, including the last two, of the five fiscal years next preceding the date of acquisition, the net earnings of the public utility available for its fixed charges shall have been not less than the total of its fixed charges for such year on an over-all basis, and shall have been not less than one and one-half times its fixed charges for such year on a priority basis, after excluding interest requirements on obligations junior to such issues as to security. The term ‘fixed charges’ as used herein shall include interest on funded

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and unfunded debt, amortization of debt discount, and rentals for leased properties;".

Section 4. Paragraph 5 of section 6819 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"5. Residue or surplus. The residue of the capital and the surplus money and funds of every such domestic insurance company or society over and above its minimum capital may be invested in such securities as are proper for the investment of minimum capital and subject to the restrictions contained in paragraphs 6, 7 and 8 of this section, may be invested in or loaned on the pledge or security of any stocks, bonds or securities of any corporation, joint stock association, association or trust, organized or existing under the laws of the United States or any state or incorporated territory, or under the laws of the Dominion of Canada or any province thereof; or in notes secured by mortgages on improved and unencumbered real property in the territory worth fifty per centum more than the amount loaned thereon; or in any such real estate as it is authorized by this chapter to hold; or in any loans secured by collateral security consisting of any of the property described herein, constituting a lawful investment for the funds of such insurance company or society."

Section 5. Paragraph 8 of section 6819 of the Revised Laws of Hawaii 1935, is hereby amended by deleting the comma after the word "thereof" in the thirteenth line thereof and by adding the words "or under the laws of the Dominion of Canada or any province thereof".

Section 6. This Act shall take effect upon its approval.

(Approved May 3, 1939.) H.B. 492, ACT 165.

[D-163] An Act to Amend Section 6839 of the Revised Laws of Hawaii 1935, Relating to the Powers and Duties of the Fire Marshal and his Subordinates.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6839 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6839. Commissioner as territorial fire marshal; subordinates; powers and duties. 1. The commissioner shall be ex-officio territorial fire marshal, herein designated fire marshal. He shall appoint a chief deputy and may appoint such other deputies, clerks and assistants as he shall find necessary and he shall fix their duties, except as herein otherwise provided. Wherever the term 'fire marshal' is used in this chapter it shall include the chief deputy fire marshal.

2. The fire marshal, with the approval of the governor, may make such regulations as he shall deem necessary relating to:

(a) The prevention of fires, and the inspection of property, periodically or otherwise, or for the prevention of or reduction of loss by fire, or to promote the safety of persons in case of fire; (b) the manufacture, storage, sale and use of combustibles and explosives; (c) the installation and maintenance of automatic or other fire alarm systems

and fire extinguishing equipment; (d) fire escape and other means of exits from or access to buildings or parts of buildings or other property in case of fire.

Notice shall be given by the fire marshal of all regulations so made by publishing the same in some newspaper of general circulation throughout the Territory and such notice of the regulations shall be deemed legal notice to all persons. Such regulations when so made and published shall have the force and effect of law.

3. The fire marshal or any deputy designated by him for the purpose shall have power and it shall be his duty:

(a) To investigate the cause, origin and circumstances of fires; (b) to supervise and make or cause to be made periodically a thorough inspection of all property which might constitute a fire hazard within the cities and towns having fire departments, and so far as practicable all other such property within the Territory; (c) to summon and compel the attendance of witnesses and production of evidence and to hold hearings and make orders in any and all matters under his jurisdiction; (d) to cooperate with any and all other governmental officers or agencies having jurisdiction in such matters.

4. The chief of the fire department in each city or town having a fire department, and the sheriff of each county and his deputies, for the territory outside of the jurisdiction of such chief of the fire department shall be deputy fire marshals for their respective jurisdictions.

5. The fire marshal shall from time to time prepare and send written instructions to all his deputies for their use in the reports required by this section.

6. The deputy for any city, town or other territory in which any fire shall occur shall immediately investigate the cause, origin and circumstances of the fire by which property has been destroyed or damaged and so far as possible determine whether the fire was the result of carelessness or design. If it shall appear to the officer making the investigation that the fire is of suspicious origin, he shall immediately notify the fire marshal. Every fire occurring in the Territory shall be reported within ten days by the deputy charged with this investigation to the fire marshal upon the forms prescribed by him.

7. The fire marshal or any deputy appointed by him shall from time to time make such additional investigations as he may deem necessary.

8. If after any investigation the fire marshal or the deputy conducting the same is of the opinion that the evidence in relation to the fire indicates that a crime has been committed, he shall present the evidence to the prosecuting officer of the county in which the supposed offense was committed, with the request that he institute such criminal proceedings as such evidence may warrant.

9. The fire marshal shall keep in his office a record of all fires occurring in the Territory and of all facts concerning the same, and shall make such compilations and statistical investigations as he may deem proper, all of which shall be kept as permanent records in his office. The record of fires shall be made daily from the reports made to him by his deputies. All records shall be public, except that

any evidence in any investigation may, in the discretion of the fire marshal, be withheld from the public.

10. Duties of chief of fire department. (a) In addition to the powers and duties of other deputies, the chief of the fire department is required, in person or by officers or members of his fire department designated by him for that purpose, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violation of any law, ordinance, regulation or order relating to fire hazard or to the prevention of fires.

(b) The inspection shall be subject to the supervision and direction of the fire marshal and shall be made at least once in six months in all of the territory within the jurisdiction of such chief of the fire department, and not less than once in three months within the fire limits or the congested districts subject to conflagration as the board of supervisors or other proper legislative body shall designate, and oftener as the chief of the fire department may determine. Each six months' period shall begin on the first days of January and July, and each three months' period on the first days of January, April, July and October, of each year.

(c) A written report of each inspection in the manner and form required by the fire marshal shall be made to the fire marshal and a copy kept on file in the office of the chief of the fire department.

(d) A copy of any report showing a change in the hazard or any violation of law, ordinance, regulation or order relating to the fire hazard upon any risk, shall be given by the fire marshal to any rating bureau making written request of him therefor.

(e) Whenever any of such officers shall find a building or other structure which, for want of repairs, lack of sufficient fire escapes, or by reason of age, dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated as to endanger other property; and whenever any of such officers shall find any premises, which by reason of the growth of weeds or other vegetation or of the collection of refuse or materials of any kind or otherwise, whether with or without the owner's knowledge, intention or permission, is especially liable to fire and which is so situated as to endanger other property; and whenever any of such officers shall find in any building or other structure or upon any premises combustible or explosive matter or inflammable conditions dangerous to the safety of such building or other structure or such premises or to any other buildings or structures or premises, the chief of the fire department shall make such order as he may deem necessary for the elimination of the fire hazard arising therefrom, which order shall be complied with by the owner or occupant of such building, structure or premises.

11. The owner or occupant may, within five days, appeal from any order made by the chief of the fire department to the fire marshal, who shall, within ten days, review the order and file his decision thereon, modifying, affirming or revoking such order.

12. If the owner or occupant, to whom such order is directed, fails to comply with such order, or with such order as modified on appeal, and within the time therein fixed, then the fire marshal is empowered and authorized to cause the buildings, structures or premises to be repaired, torn down, demolished, materials removed, and all dangerous

conditions remedied, as the case may be, at the expense of such owner or occupant, and if such owner or occupant within thirty days thereafter fails, neglects, or refuses to pay to the fire marshal the expense incurred thereby by him, the Territory shall have a prior lien for such expense on the real estate on which the buildings or structures were located, or on the premises involved by the filing of a notice of lien in the bureau of conveyances or with the assistant registrar of the land court if the real estate or premises involved be registered in the land court.

13. The fire marshal or any deputy may at all reasonable hours enter any buildings, structures or premises within his jurisdiction, except the interior of private dwellings, to make any inspection, investigation or examination which is authorized to be made under this section. The fire marshal or any deputy may enter any private dwelling whenever he shall have reason to believe that dangerous conditions creating a fire hazard exist in such dwelling. The fire marshal or any deputy or any member of any fire department may enter any private dwelling when a fire has occurred in such dwelling. It shall be unlawful to obstruct, hinder or delay any person having the right to make such inspection, investigation or examination in the performance of duty.

14. Duties of owners. (a) Every owner or other person having charge of or control over any building, structure or other premises in this section designated 'owner', shall construct, keep and make such building, structure or other premises, in this section designated 'building', reasonably safe from loss or damage to property or loss of life or injury to persons by fire, in this section designated 'fire loss', in view of the type of construction, the use of the building and all other pertinent circumstances.

(b) No owner shall permit the occupancy or use of any building which is not reasonably safe from fire loss and no owner shall fail to furnish, provide and use reasonably adequate protection and safeguards against fire or fail to adopt and use processes and methods reasonably adequate to render such building safe from fire loss, and no owner or other person shall fail or neglect to do every other thing reasonably necessary to prevent a fire loss in any building so under his charge or control.

15. The fire marshal shall have power and authority:

(a) To appoint advisers and to promote and secure the appointment and service of committees of commercial, industrial, labor, civic and other organizations, who shall, without compensation, assist the fire marshal in establishing standards of safety;

(b) To establish and maintain museums and exhibits of safety and fire prevention in which shall be exhibited equipment, safeguards and other means and methods for protection against fire loss, and to publish and distribute bulletins on any phase of this general subject;

(c) To cause lectures to be delivered, illustrated by stereopticon or other views, diagrams or pictures, for the information of owners or other persons and the general public, in regard to the causes and prevention of fires and related subjects.

16. Other duties and powers of fire-marshall; hearings. The fire marshal is vested with the power and jurisdiction over, and shall have

such supervision of, every building in the Territory as may be necessary to enforce all laws, ordinances, regulations and orders requiring protection from fire loss. The fire marshal shall have power, after a hearing had upon his own motion or upon complaint, by order:

(a) To declare and prescribe what protection, safeguards or other means or methods will be best adapted to render any building safe as required by law, ordinance or regulation.

(b) Whenever the fire marshal, after a hearing had upon his own motion or upon complaint, shall find that any building is not safe against fire loss or that the practices or means or methods of operation or processes employed or used in connection therewith do not afford adequate protection against fire loss, the fire marshal shall make and serve upon the owner such order relative thereto as may be necessary to render the building safe from fire loss, and may in such order direct that such additions, repairs, improvements or changes be made and such equipment and safeguards be furnished, provided and used, as are reasonably required to render such building safe against fire loss in the manner and within the time specified in such order.

(c) The fire marshal may fix the time within which any order shall take effect or shall be complied with by such owner; and may on his own motion or upon application of such owner or any other person affected thereby grant such further time as may reasonably be necessary for compliance with such order.

(d) If any owner fails to comply with the order of the fire marshal, then the fire marshal is empowered and authorized to take such action and make such expenditure as may be necessary to render the building safe from fire loss, and if the owner within thirty days thereafter fails, neglects or refuses to pay to the fire marshal the expense incurred by him, the Territory shall have a prior lien for such expense on the real estate involved by the filing of a notice of a lien in the bureau of conveyances or with the assistant registrar of the land court if such real estate be registered in the land court.

17. Nothing contained in this chapter shall be construed to deprive the board of supervisors of any county of any power or jurisdiction over or relative to any building or to deprive the superintendent of public works of any power or jurisdiction over or relative to the storage of explosives; provided, that whenever the fire marshal shall, by regulation, fix a standard of safety from fire loss, such regulation shall establish a minimum requirement concerning the matters covered thereby and shall be construed in connection with any ordinance or with any rule or regulation of the superintendent of public works relative to the same matter. A copy of every regulation of the fire marshal shall be filed by him with the clerk of each county and with the superintendent of public works.

18. A duplicate original of every order made by the fire marshal shall be filed in his office and such duplicate original shall be admissible as evidence in any prosecution for the violation of any of its provisions. Unless proceedings for a rehearing upon any order or a review thereof shall have been instituted and be pending, the provisions of any order shall be presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety from fire loss.

19. In all investigations made by the fire marshal and in all pro-

ceedings before him, he shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the fire marshal or of any subpoena issued by him or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, it shall be the duty of any circuit judge, on application by the fire marshal, to compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the Territory out of any appropriation or funds available for the expenses of the fire marshal.

20. The fire marshal may invoke the aid of any court of competent jurisdiction through injunction, mandamus or other process, to enforce any order or action made or taken by him in pursuance of law.

Any person affected, may, by verified petition, and proof of service of a copy of the petition upon the fire marshal, appeal in writing to the circuit court of the first judicial circuit to review any order or action made or taken by the fire marshal under the provisions of this chapter.

Notice of the making of any order by the fire marshal, including any order for a hearing, may be given by serving upon any person affected thereby a copy of the order in the same manner as is provided by law for the service of summons in civil actions in circuit courts, or by mailing a copy thereof in a sealed, postpaid, registered envelope to the person at his last known address. Service by mail as aforesaid may be proved by affidavit and the registry return receipt shall be evidence of the completion of the service.

Within five days after the service of notice of the making of any order, any person affected thereby may ask for a rehearsing and review thereof before the fire marshal, which hearing shall be had within ten days, unless a longer time be granted on the request of the person affected. A final order shall be made within five days after the close of the hearing. The evidence presented on any hearing shall be carefully preserved and when requested shall be transcribed as on appeal from circuit courts.

If application therefor be made within five days after making of the final order the same may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be had upon the record and the evidence presented before the fire marshal and no additional evidence shall be presented before the court. If either party on appeal shall offer to present material evidence different from or in addition to the evidence presented to the fire marshal, the court may continue the case and return the record to the fire marshal for a further hearing or hearings, at which either party may present additional evidence, and thereupon the fire marshal shall make such further order as the case may require and make return of the evidence and order to the court.

21. Penalty. Any owner, occupant or other person having control over or charge of any building, structure or other premises who shall

violate any provision of this section or regulation of the fire marshal or fails or refuses to comply with any order of the fire marshal or of the chief of a fire department as deputy fire marshal shall be punished by a fine not more than five hundred dollars or by imprisonment for not more than thirty days or by both fine and imprisonment." [L. 1917, c. 115, s. 49; am. L. 1929, c. 24, s. 1; am. imp. L. 1932, 1st, c. 13; am. L. 1933-4, c. 28, s. 1; R. L. 1935, s. 6839; am. L. 1939, c. 239, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1939.) **S.B. 167, Act 239.**

MUTUAL AND FRATERNAL BENEFIT SOCIETIES.

[**D-164**] An Act to Amend Chapter 224 of the Revised Laws of Hawaii 1935, as Amended by Act 172, Session Laws of Hawaii 1935, and by Act 177, Session Laws of Hawaii 1937, by Amending Sections 6852, 6852-A, 6852-B, 6852-C, 6852-D and 6852-F, by Adding Four New Sections Thereto, to be Numbered 6852-G, 6852-H, 6852-I and 6852-J; by Changing the Figures 6852-G in Section 6852-H to Read "6852-J", and by Renumbering Section 6852-G and Said Section 6852-H as Sections 6852-K and 6852-L, Respectively, All Relating to Mutual and Fraternal Benefit Societies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 6852, 6852-A, 6852-B, 6852-C, 6852-D and 6852-F of the Revised Laws of Hawaii 1935, are hereby amended to read as follows:

"**Sec. 6852. Definition; exemption.** Any corporation, society or voluntary association organized and carried on for the sole benefit of its members and their beneficiaries and not for profit; and making provisions for the payment of benefits in case of sickness, disability or death of its members, or disability or death of its members' wives or children, or making provisions for the payment of any other benefits to or for its members, subject to the compliance with its constitution and by-laws, the fund from which the payment of such benefits shall be made and the fund from which the expenses of the society shall be defrayed being derived from assessments or dues collected from its members, and the payment of death benefits being made to the families, heirs, blood relatives or persons named by its members as their beneficiaries, and any corporation, unincorporated association, society or entity, not registered under existing laws in the office of the treasurer of the territory, organized and carried on for any purpose, which requires to be paid to it regular periodic payments of money by its members whether such money be in the form of dues, subscriptions, receipts, contributions, assessments, or otherwise, and which provides for the payment of any benefit or benefits or the payment of any money or the delivery of anything of value to its members or to any person or persons named by its members as their beneficiaries, shall be declared to be, for the purpose hereof, a mutual benefit society and shall be deemed to be a fiduciary company within the meaning of section 6758 and shall, in all respects, unless otherwise specifically provided, be subject to the provisions of chapter 221 relating to fiduciary companies. Such society shall be and is exempt

from the provisions of the insurance laws of the territory, except as hereinafter provided. [L. 1919, c. 101, s. 4; R. L. 1935, s. 6752, par. 1; am. L. 1935, c. 172, pt. of s. 1; am. L. 1937, c. 177, s. 1; am. L. 1939, c. 209, pt. of s. 1.]

Sec. 6852-A. Registration. Any such society before doing business or engaging in any act shall file with the insurance commissioner duly certified copies of its constitution or organic instrument under which it purports to operate, by-laws, rules and regulations, if any. Any such society promising or offering to pay death, sick, disability or other benefits in an amount equal to or in excess of twenty-five dollars (\$25.00) shall also file copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such society and a bond in the sum of five thousand dollars (\$5,000.00) with sureties approved by the insurance commissioner conditioned upon the return of the advance payments hereinafter referred to, if the organization shall not be completed within one year. Upon the filing of the foregoing, and the furnishing of such additional information as the commissioner may require, if it appears to the satisfaction of the commissioner that the purposes of said society are lawful, the commissioner shall issue a certificate registering such society and licensing it to operate in the Territory of Hawaii, and in the case of any society offering or promising to pay death or sick and disability or other benefits in an amount equal to or in excess of twenty-five dollars (\$25.00), the commissioner, if satisfied that the purposes of said society are not for profit but for the benefit of its members, shall authorize such society to solicit members as hereinafter provided. If the commissioner shall reasonably believe that the financial plan of the society is unsound or not feasible from an actuarial or other accounting standpoint, he shall refuse to issue such certificate or to authorize the society to solicit members or to engage in business. Any person aggrieved by the decision of the commissioner refusing to issue such certificate or to authorize the society to solicit members or to engage in business, may within twenty days after such decision appeal to the circuit court of the circuit in which such society proposes to have its principal place of business. The procedure upon any such appeal shall be the same as in the case of other appeals to the circuit court in civil causes. The court shall hear such appeal without a jury. [L. 1935, c. 172, s. 1, par. 2; am. L. 1937, c. 172, s. 2; am. L. 1939, c. 209, pt. of s. 1.]

Sec. 6852-B. Authority to offer death, sick, disability or other benefits; conditions. Each such society promising or offering to pay death, sick, disability or other benefits in an amount equal to or in excess of twenty-five dollars (\$25.00) may solicit members for the purpose of completing its organization upon receipt of the certificate and authority from the insurance commissioner, provided for in the preceding section, and shall collect from each applicant the amount of not less than one regular monthly payment in accordance with its table of rates as provided by its constitution and by-laws, and shall issue to each such applicant a receipt for the amount so collected. Except as hereinafter provided, no such society shall incur any liability other than for such advance payments, nor issue any benefit certificate, nor pay or allow, or offer or promise to pay or allow to any person any death benefit until actual bona fide applications for death certificates shall have been secured upon at least 100 lives for at least twenty-five dollars (\$25.00) each, and all such applicants for death benefits shall have been regularly examined by a qualified prac-

ticing physician, and certificates of such examination shall have been duly filed with and approved by the administrative board or body of such society; nor until at least 100 applicants have been accepted for membership, nor until there shall have been submitted to the insurance commissioner, under oath of the president and secretary, or corresponding officers, of such society, a list of such applicants giving their names and addresses, date examined, date of approval, date accepted as members, name and number of the subordinate branch of which each applicant is a member (if branches have been established), amount of benefits to be granted, and the rate of stated periodical contributions which shall be sufficient to provide for meeting the mortuary obligations contracted when valued for death purposes upon the basis of a recognized table of mortality or any mutual benefit standard based on at least twenty years experience, and for disability benefits by tables based upon reliable experience, and for combined death and permanent total disability benefits by tables based upon reliable experience; nor until it shall have been shown to the insurance commissioner by the sworn statement of the treasurer or corresponding officer of such society that at least 100 applicants have paid in cash at least one regular monthly payment as herein provided, which payments in the aggregate shall amount to at least five times the maximum amount of death benefit offered or promised to be paid to any one member. If such society does not offer or promise to pay any death benefits in excess of twenty-five dollars (\$25.00) upon the death of a member, but merely offers or promises to pay disability benefits by reason of sickness or injury, or to pay any other benefits, with or without provision of death benefit in excess of twenty-five dollars (\$25.00), such society shall, before receiving a certificate of compliance with law from the insurance commissioner, prove to the insurance commissioner that at least 100 members have each paid in cash at least six regular monthly payments to the disability fund, which payments in the aggregate shall amount to at least twenty times the maximum amount of disability or other benefits offered or promised to be paid to any one member during or within a period of thirty days, which shall be credited to the disability or sick or other benefit fund, and shall, during the period of organization of such society, be held in trust to be returned to the applicants or members who have made payment of the same, if and in case the organization of such society is not completed within one year.

Except as hereinafter provided, all regular payments received for account of death benefit or disability or other benefit funds, during the period of organization of such society, shall not be used for the payment of any expenses of such society, but shall be placed on deposit or in trust in some bank or trust company approved by the insurance commissioner, payable to such society but under the joint control of the insurance commissioner, which funds, in case the organization of the society is not completed within one year, shall be returned to the applicants or members who made payments of the respective amounts. If, however, the organization is completed and the insurance commissioner issues a certificate of compliance with the law, the funds so deposited in trust, together with interest, if any, shall be released in favor of the society by the insurance commissioner. After the organization of any such society is completed and a certificate of compliance with law is granted by the insurance commissioner, the society shall be governed by its administrative board or body in accordance with its constitution and by-laws, but, except as hereinafter provided for the first year, at no time shall

such society use more than 15% of the payments up to \$50,000.00, 10% of the payments between \$50,001.00 and \$75,000.00, and 5% of the payments in excess of \$75,000.00, received from its members or applicants in the form of admission fees, dues, contributions or assessments of any nature for expenses in connection with the management or operation of such death benefit, or disability, or sick or other benefit funds; except that the commissioner may, for good cause shown to him, permit such expenses for the first year after registration to equal not more than 20% of payments up to \$50,000.00. Any commissions or other payments or allowances to persons soliciting membership in or making collections for the society shall be included in the foregoing expenditures and no part of any such commissions, payments or allowances may be in addition thereto; provided, however, that any such society which exacts a membership fee of its new members not in excess of five dollars (\$5.00) for each membership may pay commissions or other payments to persons soliciting membership out of the fund created by such membership fees and the amounts so paid as commissions or as such other payments out of such fund shall not be considered as expenses within the meaning of this paragraph.

The commissioner may make such examination and require such information from time to time as he may deem advisable. Upon presentation of satisfactory proof that the society has complied with the provisions herein set forth, and of any other applicable law, he shall issue to said society a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society as of the date of such certificate. The commissioner shall cause a record of such certificate to be made and certified copy of such record may be given in evidence with the same effect as the original certificate.

Each such society shall at all times maintain its death benefit fund at least five times the maximum amount of death benefit offered or promised to be paid to any one member, and shall also at all times maintain its disability or sick or other benefit fund at least twenty times the maximum amount of disability, or sick, or other benefits, whichever maximum amount is the greater, offered or promised to be paid to any one member during or within a period of thirty days.

After the organization of any such society is completed, and before a certificate of compliance with law is granted by the commissioner, said society shall deposit with the commissioner one-half the maximum amount required to be maintained in its death benefit fund and disability or sick or other benefit fund either in cash or in securities approved by said commissioner, or shall file with the commissioner a good and sufficient bond signed by the society as principal with one or more sureties to be approved by the commissioner and running to the commissioner and his successors in office, said bond to be in the amount hereinbefore referred to, conditioned that the surety or sureties on the bond shall be answerable in the amount of the bond for all judgments, decrees or orders given, made or rendered against the principal on the bond by any court of the territory for the payment of money. In case of any breach of the condition of any such bond, the commissioner may, and upon demand and receipt of satisfactory assurance for the payment of costs, shall enforce the bond either in his own name or in the name of any person as obligee therein, by appropriate proceedings in any court of competent jurisdiction, for the use and benefit of any person injured by the breach.

[L. 1935, c. 172, s. 1, pars, 3, 4, 5, 7, 8; am. L. 1937, c. 177, s. 3; am. L. 1939, c. 209, pt. of s. 1.]

Sec. 6852-C. Annual exhibits; examination by treasurer. Each such society must file with the commissioner annually on or before the thirty-first day of January in each year a statement under oath in such form, under such heads and in such detail as the commissioner shall prescribe. Such societies promising or offering to pay death, sick, disability or other benefits shall set forth in said statement the total business transacted and the amount of gross receipts received by such society during the year ending December 31 last preceding, the resources and liabilities of such society at the close of business on said December 31st, the receipts and expenditures, and the computation of the loss or gain of the society during said calendar year. The powers, authorities and duties relating to examinations vested in and imposed upon the insurance commissioner under the provisions of chapter 224 of the Revised Laws of Hawaii 1935, are hereby extended to and imposed upon the insurance commissioner in respect to examinations of such societies. [L. 1935, c. 172, s. 1, par. 9; am. L. 1937, c. 177, s. 4; am. L. 1939, c. 209, pt. of s. 1.]

Sec. 6852-D. Investments of certain mutual benefit societies. No domestic mutual benefit society promising or offering to pay death, sick, disability or other benefits in an amount equal to or in excess of twenty-five dollars (\$25.00) shall invest any of its assets other than as authorized and provided for in respect to domestic insurance companies and societies under the provisions of this chapter, which provisions are hereby extended to and made applicable to such mutual benefit societies. [L. 1937, c. 177, s. 5; am. L. 1939, c. 209, pt. of s. 1.]

Sec. 6852-F. Application. Any such mutual benefit society heretofore organized and now operating in the Territory of Hawaii, whether domestic or foreign, and any such society hereafter organized or hereafter desiring to operate in the Territory of Hawaii, whether domestic or foreign, shall qualify itself in conformity with the provisions of this chapter, and shall be subject to all provisions of law governing mutual benefit societies, within six months after the passage of this Act, failing which its right to operate shall cease, and in case any license fee has heretofore been paid, the same shall be refunded in the proportion that its licensed term is then unexpired.

Mutual benefit societies promising or offering to pay death, sick, disability or other benefits in an amount equal to or in excess of twenty-five dollars (\$25.00) shall, subject to the approval of the commissioner, have the power to make a constitution and by-laws for the government of the society, the admission of its members, the management of its affairs, and the fixing and readjusting of the rates of contribution of its members, and shall have the power to amend such constitution and by-laws and such other powers as are necessary to carry into effect the object and purpose of the society, but shall not suspend temporarily any part of its constitution or by-laws as the same are governed by this Act. Upon compliance with the provisions of this Act any such society engaged in transacting business or operating in this territory may exercise all of the rights conferred by this Act, and all of the rights, powers and privileges possessed by it under its constitution and by-laws, rules and regulations or articles of incorporation or charter not inconsistent with this Act; provided, however, that no such society shall, after the effective date of this Act,

issue any new certificate for the payment of death, sick, disability or other benefits except in compliance with the provisions of this Act, unless such society has to the credit of its death benefit fund assets equal to five times the maximum benefit promised or offered to be paid upon the death of a member, and also has to the credit of its disability, sick, or other benefit fund assets equal to twenty times the amount of such benefit promised any one member during or within any thirty day period.

Any foreign society subject to the provisions of this Act shall not be excused or relieved from compliance with the provisions of this Act by reason of the non-residence of its members. Upon a showing to the satisfaction of the insurance commissioner that it is impracticable and would work a hardship to comply with that provision of section 6852-E requiring the election or appointment, among its officers, of a president and a treasurer, who shall be residents of the Territory of Hawaii, the insurance commissioner shall permit such society to qualify in this respect upon its appointment of a local agent, in the same manner and subject to the same conditions as are provided for in the case of foreign corporations under the provisions of chapter 222 and chapter 223 of the Revised Laws of Hawaii 1935. The provisions of section 6852-E applicable to the president and the treasurer of such society, shall likewise be applicable to such agent." [L. 1935, c. 172, s. 1, par. 6; am. L. 1939, c. 209, pt. of s. 1.]

Section 2. Chapter 224 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto four new sections, to be numbered 6852-G, 6852-H, 6852-I and 6852-J, respectively, and to read as follows:

"Sec. 6852-G. Incorporation by charter. Subject to any restriction or prohibition in the Organic Act, any mutual and fraternal benefit society may be or become incorporated by charter as provided in sections 6718 and 6722 of the Revised Laws of Hawaii 1935, notwithstanding any limitations therein contained as to the purposes for which charters may be granted. Any society so chartered as a corporation shall be subject in all respects to the provisions of this Act.

Sec. 6852-H. Receiver; appointment, powers, duties. If, upon the examination of any mutual and fraternal benefit society as provided by this Act, or otherwise, the commissioner shall ascertain and find that the laws of the territory relating to such societies are not being fully observed, or that any irregularities are being practiced, or that the assets have been or are in danger of being impaired, or that the society is conducting its affairs in an unsafe or unauthorized manner so that the continuance of its business would be hazardous to the public, or that it is necessary for the protection of the members or creditors of the society, the commissioner shall give immediate notice thereof to the society and demand that the said irregularities be promptly corrected, or that the impairment of the assets be made good, or that all unsafe or unauthorized practices be discontinued, or that the laws in question be complied with, and should such demand not be complied with within a reasonable time fixed by the commissioner, but not exceeding thirty (30) days after such notice, then upon the request of the commissioner application shall be made by the attorney general on his behalf, to a judge or court of competent jurisdiction for the appointment of a receiver for the society; and upon presentation of such application and upon it being made

to appear that any of the facts therein enumerated as the ground for the application for a receivership exists, the court or judge shall immediately appoint a competent person as receiver, and shall determine his bond and prescribe his duties, and may make such other or further orders as shall seem proper.

Any receiver appointed under the provisions of this Act shall, except as otherwise provided by the court or judge, have, exercise and perform all of the powers and duties of a receiver of a fiduciary company, as conferred and prescribed in section 6763, which is hereby made applicable.

Sec. 6852-I. Closing of doors without notice. If, upon the examination of any such society, it is found to be insolvent, or if it is deemed necessary by the commissioner for the protection of the interests of its members or the public, the commissioner may at once close the doors of the society without any notice whatsoever, and take charge of the books, assets and affairs of the society until the appointment of a receiver as provided by law.

Sec. 6852-J. Examinations; assistance of other officers. The provisions of section 2222 relative to examination of fiduciary companies shall not be applicable to mutual and fraternal benefit societies but the commissioner in the exercise of any of his functions, powers and duties under or pursuant to this Act, may use the staff or any members of the staff of the bank examiner, and may appoint and constitute them his agents for such purpose."

Section 3. Sections 6852-G and 6852-H of the Revised Laws of Hawaii 1935, are hereby renumbered 6852-K and 6852-L, respectively.

Section 4. Section 6852-L, as so renumbered, is hereby amended by substituting for the figures "6852-G" therein, the figures "6852-J" and by substituting for the word and figure "twenty (20)" contained therein, the word and figure "ten (10)".

Section 5. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **H.B. 334, ACT 209.**

CHAPTER 225. PARTNERSHIPS, REGISTRATION OF.

PART 1. GENERAL.

[D-165] An Act to Amend Chapter 225 of the Revised Laws of Hawaii 1935, Relating to Partnerships by Adding a new Section to said Chapter to be Numbered 6862-A, Relating to Tax Clearance as Prerequisite for Dissolution of Partnership.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 225 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section to be numbered 6862-A to read as follows:

"Sec. 6862-A. **Tax clearance as prerequisite for dissolution.** No statement of the dissolution of a co-partnership shall be accepted for filing in the office of the treasurer nor shall any dissolution of a co-partnership be effective until and after the presentation of a valid certificate showing that all of the taxes, imposts, license fees and assessments theretofore levied upon, due and payable by the co-partnership to the territory or any of its municipal subdivisions, have been fully paid and discharged, or until the co-partnership shall file with the treasurer satisfactory evidence and assurance showing that all such taxes, imposts, license fees and assessments, will be paid out of the assets and properties of the co-partnership, or until the treasurer shall be furnished with a good and sufficient undertaking of some corporation, firm, or person satisfactory to the treasurer that all such lawful taxes, imposts, license fees and assessments will be paid."

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **H.B. 208, ACT 128.**

CHAPTER 226. TRUST COMPANIES.

[D-166] An Act to Amend Section 6909 of the Revised Laws of Hawaii 1935, as Amended by Act 138 of the Session Laws of Hawaii 1935, and Act 43 of the Session Laws of Hawaii 1937, Relating to Investments by Trust Companies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 2 of subsection (a) of section 6909 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"2. In the interest-bearing bonds, treasurer's warrant notes or other obligations of the territory or any county or city and county of the territory; or in the bonds of any state or incorporated territory of the United States, or of any county, school district, incorporated city or town, or of any water district, flood control district, sanitary district, municipal utility district or any other similar district, or of any other political subdivision of any such state or incorporated territory;

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provided that such county, school district, city, town, district or political subdivision has a population of not less than ten thousand inhabitants as shown by the federal census next preceding the date of such investment; and provided, further, that there has been no default in payment of either principal or interest on any of the general obligations of such state, territory, county, school district, city, town, district or political subdivision for a period of five years next preceding the date of such investment; and provided, further, that such bonds, warrants and other obligations are general obligations of such state, territory, county, school district, city, town, district or political subdivision issuing the same;”.

Section 2. Paragraph 3 of subsection (a) of section 6909 of the Revised Laws of Hawaii 1935, as amended by Act 138, Session Laws of Hawaii 1935 and Act 43, Session Laws of Hawaii 1937, is further amended to read as follows:

“3. In bonds secured by either real or personal property of any corporation which at the time of such investment is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia; provided that for a period of five years next preceding the date of such investment, there has been no default in payment of principal or interest on any of the general obligations of such corporation which has not within a period of six months after default been cured to the satisfaction of the treasurer of the Territory of Hawaii; provided, further, that such assets may be invested in the notes of any corporation, which notes are secured by bonds of such corporation, if the bonds are eligible for investment under the provisions of this paragraph and if the principal amount of the notes secured by such bonds does not at the time of acquisition exceed ninety per centum of the actual cash market value of such security;”.

Section 3. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **H.B. 209, ACT 81.**

[D-167] An Act to Amend Section 6909 of the Revised Laws of Hawaii 1935, as Amended by Act 138 of the Session Laws of 1935, Relating to Investments by Trust Companies.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 6 of subsection (a) of section 6909 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“6. In improved or productive real estate in the territory; and in real estate necessary or desirable for use in connection with or to enhance the value of, and which adjoins any real estate owned by the trust or guardianship at the time of such investment;”.

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1939.) **H.B. 206, ACT 94.**

Title XXV. BUSINESS LAW AND REGULATIONS.

CHAPTER 231A. GASOLINE, FUEL AND MOTOR OIL.

[D-168] An Act to Amend Act 127 of the Session Laws of Hawaii 1937, Regulating the Sale of Gasoline, Fuel and Motor Oil, By Amending Section 8 Thereof, Relating to Signs Advertising Price.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8 of Act 127 of the Session Laws of Hawaii 1937, is hereby amended by adding a new paragraph thereto to be numbered (a), the existing paragraph to be numbered (b), so that said section 8, as amended, shall read as follows:

"Sec. 7045H. Sec. 8. Signs advertising price. (a) It shall be unlawful for any person, firm, association or corporation or any member, officer, agent or employee thereof engaged in the business of selling at retail any of the products specified in section 1 hereof, to sell, offer for sale or advertise for sale, any of said products unless there is displayed on such dispensing apparatus in a conspicuous place, at least one side showing, the actual total price including taxes at which such products are sold, offered for sale or advertised for sale. Such signs shall be placed in a conspicuous place on said dispensing apparatus and if said products may be sold from more than one side of such dispensing apparatus the same shall be so placed as to be visible from at least two sides thereof; each such sign shall be not less than three and one-half (3½) inches nor more than eight (8) inches in height and shall be not less than eight (8) inches nor more than twelve (12) inches in width. All letters, figures or numerals on each such sign, however affixed thereto, marked thereon, imprinted thereon, placed thereon or embossed thereon, shall be at least three-fourths (¾) of an inch in height and each and all of the lines or marks used in the making or forming of any or all such letters, figures or numerals which are a part of such sign shall be at least one-eighth (¼) of an inch in width. Each and all of the letters, figures or numerals which are part of any such sign, shall be plainly legible, the same to be of like color or tint and such color or tint shall contrast with the background and other portions or parts of such sign; provided, that for the purpose of this section a fraction shall be considered as one numeral; and provided further, that where a price computing scale is used in connection with or as a part of any such sign, the figures, letters or numerals of such computing scale need not comply with the provisions of this section. (b) It shall be unlawful for any person, firm, association or corporation, or any member, officer, agent or employee thereof, to advertise at any place where any of the products specified in section 1 hereof, are sold or kept for sale, the price at which such products are offered for sale, without also clearly and conspicuously showing on the same sign, board, placard or other place where such price is so advertised, the name of the particular product, the price of which is so advertised, and also the trade name or brand, if any, of the product so offered for sale, and if such product has no trade name or brand, then the

words 'no brand' shall be so displayed in connection with the designation of the product." [L. 1937, c. 127, s. 8; am. L. 1939, c. 69, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 20, 1939.) **H.B. 344, Act 69.**

CHAPTER 238. SALE OF SECURITIES, UNIFORM ACT.

[D-169] An Act to Amend Chapter 238, Revised Laws of Hawaii 1935, Relating to Sale of Securities, By Amending Section 7340 Thereof to Provide That No Bond Shall Be Required Where the Par Value Or Price of Securities to Be Offered is Less Than Five Thousand Dollars.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 238, Revised Laws of Hawaii 1935, is hereby amended by amending the third paragraph of Section 7340 thereof to read as follows:

"Approval, bond; salesmen. If the commissioner shall find that the applicant is of good repute and has complied with the provisions of this section including the payment of the fee hereinafter provided, he shall register such applicant as a dealer upon his filing a bond in the sum of five thousand dollars running to the Territory conditioned upon the faithful compliance with the provisions of this chapter by the dealer and by all salesmen registered by him while acting for him. Such bond shall be executed as surety by a surety company authorized to do business in the Territory; provided, however, that no bond shall be required of or from any such applicant if the applicant, at the time of making his application, is a member of any recognized stock or bond exchange which has been in existence for a period of five years prior to April 29, 1931; provided, further, that no bond shall be required if the aggregate par value of the securities to be sold is less than five thousand dollars, or in the case of no par value stock, if the price at which such stock is to be offered to the public is less than five thousand dollars, if the person selling or offering such securities for sale to the public shall notify the commissioner in writing of his intention to make such sale, and shall, after such sale, file with the commissioner a statement of the kind and amount of stock sold, and the price received therefor. Where the aggregate par value of such securities or where the price at which said stock is to be offered to the public is less than five thousand dollars, no more than one such sale or offering shall be allowed within a period of one year."

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **S.B. 120, Act 149.**

**CHAPTER 245. WORKMEN'S
COMPENSATION LAW.*****COMPENSATION.**

[D-170] An Act to Amend Chapter 245 of the Revised Laws of Hawaii 1935, as Amended, Relating to Workmen's Compensation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending section 7492 thereof to read as follows:

"Section 7492. 1. Permanent total disability. Where the injury causes total and permanent disability for work, the employer shall pay the injured employee a weekly compensation equal to 60 per centum of his average weekly wages, but not more than twenty-five dollars nor less than five dollars a week. But no adjudication of permanent total disability shall be made until after two weeks from the date of injury.

In the case of the following injuries, the disability caused thereby shall be deemed total and permanent:

1. The total and permanent loss of sight in both eyes;
2. The loss of both feet at or above the ankle;
3. The loss of both hands at or above the wrist;
4. The loss of one hand and one foot;
5. An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or of one leg and one arm;
6. An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration is not to be taken as exclusive.

In no case shall the weekly payments continue longer than three hundred and twelve weeks; nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars.

2. Temporary total disability. Where the injury causes total disability for work, the employer, during disability, but not including the first seven days thereof, except as hereinafter provided, shall pay the injured employee a weekly compensation equal to 60 per centum of his average weekly wages, but not more than twenty-five dollars nor less than five dollars a week; provided, in case of an employee whose average weekly wages are less than five dollars a week, the weekly compensation shall be the full amount of the average weekly wages, provided, however, that in case the injury results in disability of more than forty-nine days, the compensation shall be allowed from the date of disability.

*[This chapter extensively amended by Act 237. See *infra*, pages 357 to 376.]

In no case shall the weekly payments continue after the disability ends, nor longer than three hundred and twelve weeks; nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars." [L. 1915, c. 221, s. 13; am. L. 1917, c. 227, s. 4; am. L. 1923, c. 249, s. 3; R. L. 1935, s. 7492; am. L. 1939, c. 206, s. 1.]

Section 2. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending all portions of section 7493 thereof, except subsection 3 of said section (which subsection 3 shall not be deemed to be affected by this Act), to read as follows:

"Section 7493. 1. Permanent partial disability. Where the injury causes a disability partial in character but permanent in duration, the employer shall pay the injured employee, regardless of his immediate subsequent ability for work, a weekly compensation equal to 60 per centum of his average weekly wages for the period named in the schedule as follows:

Thumb. For the loss of a thumb, sixty weeks;

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks;

Second finger. For the loss of a second finger, thirty weeks;

Third finger. For the lost of a third finger, twenty-five weeks;

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks;

Phalanx of thumb or finger. The loss of the first phalanx of the thumb or finger shall be considered to be equal to the loss of one-half of the thumb or finger, and compensation shall be one-half of the amount above specified for loss of the thumb or finger. The loss of more than one phalanx of the thumb or of any finger shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

Great toe. For the loss of a great toe, thirty-eight weeks;

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks;

Phalanx of toe. The loss of the first phalanx of any toe shall be considered to be equal to the loss of one-half of the toe; and the compensation shall be one-half of the amount specified for the loss of the toe. The loss of more than one phalanx of any toe shall be considered as the loss of the entire toe;

Hand. For the loss of a hand, two hundred and forty-four weeks;

Arm. For the loss of an arm, three hundred and twelve weeks;

Foot. For the loss of a foot, two hundred and five weeks;

Leg. For the loss of a leg, two hundred and eighty-eight weeks;

Eye. For the loss of an eye, one hundred and twenty-eight weeks;

Ear. For the permanent and complete loss of hearing in both ears, three hundred and twelve weeks. For the permanent and com-

plete loss of hearing in one ear, sixty weeks. For the loss of both ears, one hundred and twenty-eight weeks. For the loss of one ear, sixty weeks.

Loss of use. Permanent loss of the use of hand, arm, foot, leg, eye, thumb, finger, toe or phalanx, shall be considered as equivalent to and draw the same compensation as the loss of a hand, arm, foot, leg, eye, thumb, finger, toe or phalanx.

In cases of permanent partial disability, due to injury to a member named in this schedule, resulting in less than total loss of the member or in less than total loss of use thereof, and where the disability is not otherwise compensated in this schedule, compensation shall be paid at the rate prescribed in this schedule for the total loss of or the total loss of use of the member, and for a period to be determined as follows: the percentage of permanent partial disability to total disability for the same member in the schedule shall be determined and the compensation hereinabove prescribed shall be paid for such portion of the period hereinabove prescribed for total loss or total loss of use of the member, as such percentage of disability bears to total disability of the member.

In cases of permanent partial disability due to the same accidental injury to the thumb and one or more fingers; or to two or more fingers of one hand; or to the great toe and one or more toes other than the great toe; or to two or more toes other than the great toe of the foot; the percentage of permanent partial disability to total disability for the hand or foot, as the case may be, shall be determined, and the compensation hereinbefore prescribed shall be paid for such portion of the period hereinbefore prescribed for total loss or total loss of use of the hand or foot, as such percentage of disability bears to total disability of the hand or foot.

Amputation. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation, except the benefits provided in sections 7491 and 7492; provided, however, that payments of compensation under this section shall not commence until after the period of total or partial disability shall have terminated.

In case of an injury resulting in serious facial or head disfigurement the board may, in its discretion, make such award or compensation as it may deem proper and equitable, in view of the nature of the disfigurement, but not to exceed five thousand dollars.

Other cases. In all other cases in this class of disability, the compensation shall be 60 per centum of the difference between his average weekly wages and his wage earning capacity thereafter in the same employment or otherwise, payable during the continuance of partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of any party in interest; provided, however, that in no case under this paragraph shall the weekly payments continue for a longer period than three hundred and twelve weeks.

The total compensation under this section and the total compensation under section 7492, taken together, shall not exceed in the aggregate the sum of five thousand dollars.

2. Temporary partial disability. Where the injury causes partial disability for work, the employer, during the disability and, except as hereinafter in this paragraph provided, for a period of three hundred and twelve weeks beginning with the first day of disability, shall pay the injured workman a weekly compensation equal to 60 per centum of the difference between his average weekly wages before the accident and the weekly wages he will most probably be able to earn thereafter, but not more than twelve dollars a week. In no case shall the weekly payments continue after the disability ends; and in case the partial disability begins after a period of total disability, the period of total disability shall be deducted from the total period of three hundred and twelve weeks; nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars. But no adjudication of disability shall be made until after two weeks from the date of injury.

4. In addition to the compensation hereinabove scheduled where any injury results in the amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any natural or artificial teeth, or the loss of vision which may be partially or wholly corrected by the use of lenses, the employer shall furnish, but not more than once for each injury aforesaid, an artificial of any such member lost, and in the case of correctable loss of vision, one set of suitable glasses; the pecuniary liability of the employer for such artificial limbs or supplies as may be required by this subparagraph 3 shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when the treatment is paid for by the injured person.

5. If an employee who has previously incurred a permanent partial disability through the loss of one hand at or above the wrist, or one foot at or above the ankle, receives a personal injury by accident arising out of and in the course of his employment which results in the loss of a foot at or above the ankle, or a hand at or above the wrist, or, having lost the sight in one eye, receives injury which results in the total and permanent loss of the sight in the other eye, the employer shall be liable only for the permanent partial disability caused by the subsequent injury; provided, however, that, in addition to the compensation for permanent partial disability and after the cessation of payments for the period of weeks prescribed by paragraph 2 of this section, the disabled employee shall be paid by the industrial accident board, out of the special compensation fund, the remainder of the compensation that would then be due or thereafter become due the injured employee for permanent total disability if the subsequent injury itself had been the cause of his permanent total disability, such payments to be made by the board weekly by orders drawn on the treasurer of the territory to be charged against the special compensation fund."

[Paragraph 3 of Sec. 7493 amended by Act 147, infra, page 308.]

Section 3. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending section 7517 thereof to read as follows:

"Sec. 7517. Reopening case; modification of awards and agreements. The board may at any time, either of its own motion or upon the application of any party, reopen any case on the ground that fraud has been practiced on the board or on any party and make such award or decision as it shall deem proper.

On the application of any party on the ground of a change of conditions, the board may, at any time within seven years after the date of the injury or accident or within three years after the date of final payment of compensation previously awarded, whichever period is longer, and not oftener than once in six months, review any agreement or award, and on review may make an award ending, diminishing or increasing the compensation previously agreed upon or awarded subject to the maximum and minimum provided in this chapter, and shall, in all cases under this section, state its conclusions of fact and rulings of law, and immediately send to the parties a copy of its award or decision, but this paragraph shall not apply to a commutation of payments under section 7498." [L. 1915, c. 221, s. 37; am. L. 1923, c. 249, s. 6; R. L. 1935, s. 7517; am. L. 1939, c. 206, s. 3.]

Section 4. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending paragraph 4 of section 7536 to read as follows:

"Any employer who refuses or neglects to make any of the reports required by this section shall be punished by a fine of not more than twenty-five dollars (\$25.00) for each offense."

Section 5. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending paragraphs 2, 5 and 6 of section 7540 to read respectively as follows:

"2. 'Workman' is used as synonymous with 'employee', and means any person who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. It does not include a person whose employment is purely casual and not for the purpose of the employer's trade or business, or whose remuneration from any one employer, excluding pay for overtime, exceeds fifty dollars a week, provided, that where an employee is loaned or hired out to another person (herein referred to as the 'borrower'), for the purpose of furthering the borrower's trade or business, the employee shall, beginning with the time when the control of the employee is transferred to the borrower and continuing until he shall be again returned to the control of the original employer, be deemed to be the borrower's employee regardless of whether he is paid directly by the borrower or not."

"5. 'Industrial employment' in the case of private employers, includes employment only in a trade, occupation or profession which is carried on by the employer for the sake of pecuniary gain. 'Public employment' means employment by the territory, or by a county, or by any political subdivision of the territory. It does not include the employment of public officials who are elected by popular vote or who receive salaries exceeding twenty-four hundred dollars a year.

6. 'Board' or 'industrial accident board', shall mean the industrial accident board of the respective counties."

Section 6. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the first paragraph of section 7490 thereof to read as follows:

"Sec. 7490. Death benefits; average weekly wages; payments to whom, etc. In computing death benefits the average weekly wages of the deceased employee shall be considered not to be more than fifty dollars, nor less than five dollars; but the total weekly compensation shall not exceed in any case the average weekly wages computed as provided in section 7495, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars."

Section 7. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section to be known as section 7495A and to read as follows:

"Section 7495A. Payment in kind. During any period of temporary or permanent disability during which the employer continues to furnish the injured employee board, lodging, fuel and other advantages, hereinafter called 'perquisites', the value of which can be determined in money, and which have been included in the calculation of wages as provided in section 7540, the furnishing of such perquisites may be considered as payment in kind for that portion of the compensation that is included on account of such perquisites; provided, however, that if at any time during the compensation period, the employer ceases to furnish such perquisites, no deduction of the value of such perquisites as payment in kind from the compensation shall be permissible."

Section 8. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by substituting in the the first two lines of **section 7486** thereof, for the words "six months", the words "one year."

Section 9. In the event that the powers, duties and functions exercised by the industrial accident board in the first instance under the Workmen's Compensation Law as the same existed prior to April 15, 1939, shall be or have been transferred to any other officer or agency by any Act passed at the current session of the legislature or any extension thereof, then as used in the provisions of said law amended by this Act (a) the term "industrial accident board" or any equivalent term shall be deemed to mean and refer to such executive officer or agency to whom the actual exercise of said powers, duties and functions shall be or have been so transferred; (b) the term "chairman of said board" shall also be deemed to mean and refer to such officer or agency; and (c) the term "circuit court" shall be deemed to mean and refer to such appeal board or other appellate tribunal to which any appeal may lie from any decision or order of such officer or agency, or any higher appellate tribunal to which an appeal may lie from any decision or order of such first mentioned appellate tribunal.

Section 10. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **H.B. 340, ACT 206.**

[D-171] An Act to Amend Section 7493 of the Revised Laws of Hawaii 1935, As Amended By Act 66, Series D-154, of the Session Laws of Hawaii 1937, Relating to Special Compensation Fund and the Rights and Liabilities of Employers and Employees With Respect Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph 3 of section 7493 of the Revised Laws of Hawaii 1935, as amended by Act 66, Series D-154, of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

"3. Special compensation fund. There is hereby created a fund to be known as the special compensation fund, which shall consist of payments made to it as in this section provided. The treasurer of the Territory shall be custodian of the said fund, and all disbursements therefrom shall be paid by him upon orders of the industrial accident board, which orders shall be signed by the chairman of said board and attested by the secretary of the board. Every employer, or if he is insured, his insurance carrier, shall pay, pursuant to an order to be made by the industrial accident board, into the special compensation fund for every case of accidental injury causing death in which there are no dependents entitled to compensation, the sum of five hundred dollars; provided that whenever such sum is paid into the said fund and it subsequently develops that compensation is payable to dependents or, if on appeal, the circuit court having jurisdiction over the cause shall enter judgment either by way of compromise or after trial in favor of any claimed dependent or dependents, the industrial accident board or said circuit court shall order the refund of such sum, and the treasurer of the Territory as custodian of said fund shall immediately refund the same upon receipt by him of a certified copy of said order; and provided further, that, in cases where the employer or his insurance carrier has not paid the aforesaid five hundred dollars into the special compensation fund and where any party has appealed from the decision, ruling or order of the industrial accident board and where the circuit court having jurisdiction over the cause enters judgment either by way of compromise or after trial in favor of any claim dependent or dependents, there shall be no liability on the part of said employer or his insurance carrier to pay such sum into the special compensation fund.

There is hereby appropriated from the general fund of the Territory, and by way of advancement, the sum of ten thousand dollars, to be credited to the special compensation fund created by paragraph 3 of this section. When said fund has attained a total of twenty thousand dollars, the said sum of ten thousand dollars shall be therefrom reimbursed to the general fund. The sum hereby appropriated shall be available for all counties and shall be apportioned between them by the treasurer of the Territory as their needs indicate."

Section 2. In the event that the powers, duties and functions exercised by the industrial accident board in the first instance under the workmen's compensation law as the same existed prior to April 15, 1939, shall be or have been transferred to any other officer or agency by any Act passed at the current session of the legislature or any extension thereof, then as used in the provisions of said law amended by this Act (a) the term "industrial accident board" or any equivalent term shall be deemed to mean and refer to such executive officer or

agency to whom the actual exercise of said powers, duties and functions shall be or have been so transferred; (b) the term "chairman of said board" shall also be deemed to mean and refer to such officer or agency; and (c) the term "circuit court" shall be deemed to mean and refer to such appeal board or other appellate tribunal to which any appeal may lie from any decision or order of such officer or agency, or any higher appellate tribunal to which an appeal may lie from any decision or order of such first mentioned appellate tribunal.

Section 3. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **S.B. 151, ACT 147.**

[For extensive amendments to Chapter 245 by Act 237, see infra, pages 357 to 376.]

Title XXVI. MISCELLANEOUS TERRITORIAL PROVISIONS.

CHAPTER 248. ELECTION, EDUCATIONAL, JUDICIAL AND TAXATION DISTRICTS.

[D-172] An Act to Amend Chapter 248 of the Revised Laws of Hawaii 1935, By Amending Subdivision 2 of Section 7620 Thereof, to Make the Island of Lanai A Separate Election, Taxation, Educational and Judicial District.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subdivision 2 of section 7620, chapter 248 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"The islands of Maui, Molokai, Lanai and Kahoolawe and counties of Maui and Kalawao shall be divided into seven districts, as follows:

1. Kahikinui, Kaupo, Kipahulu, Hana and Koolau, to be styled the Hana district;

2. Hamakualoa, Hamakuapoko, portion of Kula, and Honauula, the western boundary being a line starting from the sea at Kapukaulua on the boundary between the ahupuaas of Haliimaile and Wailuku, thence running inland following said boundary to the mauka side of the Lowrie ditch, thence following the mauka side of said ditch and its projected extension to the Waiakoa gulch which is the boundary between the ahupuaas of Pulehuunui and Waiakoa, thence down along said boundary to the mauka boundary of the Waiakoa Homesteads (makai section), thence along said boundary to the ahupuaa of Kaonoulu, thence across the ahupuaa of Kaonoulu to the mauka boundary of the Waiohuli-Keokea Beach Homesteads, thence

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along said boundary to the mauka boundary of the Kamaole Homesteads, thence along said boundary and the extension thereof to the north boundary of the ahupuaa of Paehau, thence along said boundary to the sea, and including the island of Kahoolawe, to be styled the Makawao district;

3. All that portion of central Maui lying east of a line along the boundary of the ahupuaas of Kahakuloa and Honokohau to the peak of Eke crater, thence along the ridge of mountains and down the bottom of Manawainui gulch to the sea, and west of the boundary of Makawao district, to be styled the Wailuku district;

4. All that portion of Maui lying west of Wailuku district, to be styled the Lahaina district;

5. The island of Molokai, except that portion of said island known as Kalaupapa, Kalawao and Waikolu and commonly known or designated as the Leper Settlement, to be styled the Molokai district;

6. All that portion of the island of Molokai known as Kalaupapa, Kalawao and Waikolu forming the county of Kalawao, to be styled the Kalawao district;

Provided, however, that the district of Kalawao shall be deemed to be included in the first judicial circuit for the purposes of appeal from the district magistrate and for all other judicial purposes;

7. The island of Lanai, to be styled the Lanai district."

Section 2. This Act shall take effect on July 1, 1939.

(Approved April 3, 1939.) **H.B. 269, ACT 35.**

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CHAPTER 250.

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VOTING BY ABSENTEES.

[D-173] An Act to Amend Section 7695 of the Revised Laws of Hawaii 1935, As Amended, Relating to Absentee Voters, So As to Provide for Voting By Patients In Hospitals and Institutions Who Are Unable to Attend At the Polls.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7695 of the Revised Laws of Hawaii 1935, as amended by Act 99, Series D-157, of the Session Laws of Hawaii 1937, is hereby amended by adding thereto a new subsection, to follow subsection 3 thereof, and reading as follows:

"3a. Any registered voter qualified to vote at any general, primary or special election and who is confined in any hospital (other than the territorial hospital) or in any public institution for the care of indigents or aged persons, located on the same island in which such person is registered to vote, and due to physical ailments or in-

firmities is unable to attend the polls, shall, if so requesting the person in charge of such hospital or institution in writing not more than five days nor less than three days next preceding such election, be entitled and enabled to vote in the following manner:

It shall be the duty of the person in charge of any such hospital or institution to deliver, either personally or by a specially deputized subordinate, on the morning prior to such election, on the islands of Oahu, Hawaii, Maui and Kauai, to the county clerk and on the islands of Molokai (except Kalawao) and Lanai to the respective district magistrates, a list of all adult and mentally competent patients or inmates who have so requested to vote, together with their written requests.

The county clerk or district magistrate, as the case may be, shall thereupon ascertain which of said patients are eligible to vote at such election within such county, said district magistrates being guided by the list of electors printed pursuant to section 7655, and shall thereupon seal such ballot or ballots that each such voter will be entitled to cast at such election and an unsealed return envelope in a separate envelope for each such voter, writing on the outside of such outer envelope the name of the voter and on the enclosed unsealed envelope the voter's name and the district and precinct in which he is entitled to vote. These he shall deliver to the aforesaid person bringing in said list.

It shall be the duty of the person in charge of each such hospital or institution, on the day preceding each such election, to deliver each such sealed envelope to the patient whose name appears thereon, to attend while such person secretly fills out such ballot and seals it in, and signs his name on, the aforesaid enclosed envelope.

In case any such voter suffers the disabilities specified in section 7693, such person in charge shall, in the presence of a witness, assist such voter in marking the ballot and signing the enclosed envelope and shall place upon the latter a notation thereof, including the name of such witness.

It shall be the duty of each such person in charge of such hospital or institution on the island of Oahu, personally or by a specially deputized subordinate, to deliver, on the morning of such election and before the hour of nine o'clock a. m., all of such envelopes to the county clerk who shall, at the time he delivers the ballots of other absentee voters to the inspectors of election of the precinct where the voters are registered, and in any event on the day of election and before balloting has ceased, deliver the envelopes to the inspectors of the respective precincts. It shall be the duty of each such person in charge of such hospital or institution on any of the islands of Hawaii, Maui, Kauai, Molokai (except Kalawao) or Lanai, either personally or through the deputy sheriff, to deliver, on election day and before balloting has ceased, all of such sealed envelopes to the inspectors of election at the proper precincts to which they belong. The ballots contained in such sealed envelopes shall then be cast in the manner prescribed in subsection 4 hereof.

In the county of Kalawao one of the election inspectors on election day and before balloting has ceased shall accompany the superintendent of the leper settlement or his assistant to the hospital and all homes where there are persons on the list of electors who because of

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physical ailments or infirmities are unable to attend the polls and together they shall, in the manner hereinafter set forth, enable those of such persons as wish to vote to do so.

The inspectors shall furnish each such patient with a folded ballot and an unmarked open envelope. Such of those who do not suffer the disabilities specified in section 7693 shall secretly fill out the ballot furnished him by the inspector, fold it, seal it in the aforesaid envelope, write his name on the envelope and deliver it to the inspector.

The inspector shall assist such of those who suffer the disabilities specified in section 7693 in marking his ballot and signing said envelope.

Together the inspector and superintendent or his assistant shall deliver all of such sealed envelopes to the other inspectors of election."

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **H.B. 13, ACT 154.**

CHAPTER 253. FARM LOANS.

[D-174 An Act to Amend Section 7763 of the Revised Laws of Hawaii 1935, as Amended by Chapter 253 (Series D-157) of the Session Laws of Hawaii 1935, Relating to Farm Loans, and Validating Prior Loans and Mortgages.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7763 of the Revised Laws of Hawaii 1935 is hereby amended:

(a) by amending paragraph numbered 2 thereof to read as follows:

"2. Every mortgage shall contain an agreement providing for the repayment of the loan either on an amortization plan by means of a fixed number of semi-annual instalments sufficient to cover five per centum (5%) interest and such amount to be applied on the principal as will extinguish the debt within the period as hereinafter specified, or by regular monthly payments on principal with interest at five per centum (5%) figured on all balances, the manner of repayment of the loan to be at the discretion of the board; provided, however, that additional payments in any sums, or the payment of the entire principal, may be made at any date within the time period of the loan; and provided, further, that the board shall, for satisfactory cause and in its discretion, extend the time within which the instalments of principal may be paid for a period not exceeding two (2) years in any case; and provided, further, that in the case of short term loans under Class 'B', as hereinafter classified, the amortization plan shall not apply."

(b) by deleting from lines nine, ten, eleven and twelve of paragraph numbered 5 of said section the following:

"Failure to maintain bona fide residence upon the land during the duration of the loan shall constitute default, and the whole loan shall become due and payable immediately and it shall be obligatory upon the board to proceed as provided in the case of any default;" and inserting in lieu thereof the following:

"Failure to maintain bona fide residence upon the land during the duration of the loan shall constitute default, and the whole loan may become due and payable immediately at the discretion of the board and the board may proceed as provided in the case of any default;".

(c) by substituting for the "period" at the end of the first paragraph of subsection numbered 5 of said section 7763, a "semi-colon", and adding thereto the following:

"and provided, further, that where the applicant carries on farming operations on the land sought to be mortgaged but resides on a house lot within such reasonable distance thereof, as determined by the board, and within the same district as in chapter 248 provided, residence upon said house lot shall fulfill the residence requirements of this paragraph."

(d) by deleting the word "six" in line 10 of paragraph numbered 8 of said section, and inserting in lieu thereof the word "five".

Section 3. All prior loans made by and all prior mortgages executed to the board are hereby approved, ratified and confirmed, any other provision of law to the contrary notwithstanding.

Section 4. This Act shall take effect upon its approval.

(Approved May 4, 1939.) **S.B. 249, ACT 170.**

CHAPTER 254A. DEPARTMENT OF INSTITUTIONS.

[D-175] An Act Amending Title XXVI of the Revised Laws of Hawaii 1935, by Adding Thereto A New Chapter Numbered 254 A. Providing for a Department of Institutions to Administer the Territorial Hospital, the Industrial Schools, and Oahu Prison and other Territorial prisons, Prescribing Its Powers, Duties and Functions, and Amending Chapters 41, 132 and 217 of Said Revised Laws, Relating Respectively to the Territorial Hospital, Industrial Schools and Territorial Prisons, and Other Laws Inconsistent With This Act, to Conform Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Title XXVI of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new chapter, numbered 254 A, to read as follows:

"CHAPTER 254A. DEPARTMENT OF INSTITUTIONS.

Sec. 7772. **Department of institutions; creation; in charge of director of institutions.** There is hereby created a department of institu-

tions of the Territory, the head of which department shall be known as the director of institutions. The director shall be appointed in the manner prescribed by the first paragraph of section 80 of the Organic Act, shall hold office for a term of four years and until his successor is appointed and qualified, unless sooner removed, and may be removed by the governor for cause.

Sec. 7772.1. Definitions. Wherever used in this chapter or in any of chapters 41, 132 and 217, unless the context clearly otherwise indicates:

1. 'Director' means the director of institutions appointed pursuant to this chapter.
2. 'Department' means the department of institutions.

Sec. 7772.2. Certain existing boards abolished; certain institutions, functions, rights, liabilities, etc., transferred to department of institutions; general powers, duties of director; deputies, assistants, etc. The board of commissioners for Waimano Home, and the board of industrial schools, provided for, respectively, by chapters 32 and 132, as the same existed prior to the effective date of this chapter are hereby abolished.

Subject to any applicable civil service and classification Acts relating to territorial employees that may be enacted, and to any special provisions of law applicable to any such institution, the director may appoint an assistant for, and to be in immediate supervision of, each institution heretofore under the jurisdiction of the board of commissioners for Waimano Home, the board of industrial schools or the board of prison directors, and the territorial hospital, respectively, together with such other assistants, and such clerical, stenographic and other help as may be necessary for the proper performance of the duties of the department.

The compensation of all said appointees of the director shall be as fixed by law. The director shall require such of the aforesaid appointees as he deems necessary to furnish bond in such amounts as he may prescribe.

Except as otherwise provided by the Act enacting this chapter, all rights, powers, functions, duties and liabilities of, or held, possessed or exercised by, or imposed upon, (a) any of the boards mentioned in this section with relation to the institutions, persons, and any matters, under their jurisdiction, or (b) the board of health of the Territory with relation to the territorial hospital and any matters covered by chapter 41, prior to the effective date of this chapter, are hereby transferred to the director, who shall, except as otherwise provided by law, have, exercise and be subject to the same rights, powers, functions, duties and liabilities with respect to the said respective institutions, persons and matters, as were, prior to said effective date, held, possessed or exercised by, or imposed upon, the said respective boards with respect to said institutions, persons and matters under their respective jurisdictions.

Sec. 7772.3. Advisory board. There is hereby created an advisory board on institutions to consist of five members, to be appointed and removable by the governor in the manner prescribed by the first paragraph of section 80 of the Organic Act and to serve without pay. The members shall hold office for one year or until their successors

are appointed and qualified. Any vacancy shall be filled by appointment for the unexpired term involved.

The advisory board shall hold such meetings as required on call of the director who shall preside.

Sec. 7772.4. Rules, forms; approval by governor. Wherever in this chapter or in any of said chapters 32, 41, 132 and 217, the director is authorized to promulgate rules, or to prescribe forms, the same shall, in order to be effective, be approved by the governor.

Sec. 7772.5. Reports. The director shall file with the governor a written report or reports at such times, at least once in each year, and in such form, as shall be requested by the governor, covering the condition and activities of his department and of each division thereof and institution thereunder."

Section 2. All unexpended moneys heretofore, or during the present session of the legislature, or any extension thereof, appropriated, or otherwise held, for administration or expenditure: (a) by or under the supervision of the board of health for the territorial hospital or for any purposes set forth in said chapter 41, (b) by or under the supervision of the board of commissioners for Waimano Home, or (c) by or under the supervision of the board of industrial schools, or (d) by or under the supervision of the board of prison directors or the warden of Oahu Prison; are hereby reappropriated and transferred to the director to be administered by him and expended for the same respective purposes for which said moneys were held or expendable prior to such reappropriation and transfer, such expenditures to be made upon vouchers approved by him or his duly authorized subordinates, unless otherwise specifically provided by law.

Section 3. Chapter 30 of said Revised Laws is hereby amended:

(1) By substituting for the words "board of health", in the 2nd line of **section 1010** thereof, the words "director of institutions".

(2) By substituting for the word "board", in the 1st and 5th lines of **section 1011**, and in the 8th line of **section 1013**, thereof, the word "director"; and by substituting for the word "it", in the 8th line of said **section 1011**, the word "he".

Section 3-a. Chapter 32 of said Revised Laws is hereby amended:

(1) By amending section 1030 thereof to read as follows:

"Sec. 1030. Home for feeble-minded. The territorial institution for the feeble-minded shall be known as 'Waimano Home'. All rights intended to be secured to the home for feeble-minded as to the use of land, appropriations, etc., shall be unaffected by the designation of the home as the 'Waimano Home'." [L. 1919, c. 102, s. 1; am. L. 1923, c. 94, s. 1; R. L. 1935, s. 1030; am. L. 1939, c. 203, s. 3-a, par. 1.]

(2) By amending section 1031 thereof to read as follows:

"Sec. 1031. Home conducted by director of institutions on farm colony plan. The home for the feeble-minded shall be under the administration and control of the director of institutions, hereinafter in this chapter designated as the 'director', as provided in chapter 254 A, and shall be conducted on the 'farm colony' plan. The director, as

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provided from time to time by law, shall have power to erect suitable cottages or dormitories, dining halls and kitchens, schoolrooms, workshops, barns, outhouses and such other buildings as shall be found necessary or advisable, and within the scope of available appropriations therefor." [L. 1919, c. 102, s. 2; R. L. 1935, s. 1031; am. L. 1939, c. 203, s. 3-a, par. 2.]

(3) By substituting for the word "board", in the 1st line of section 1032 thereof, the word "director"; and by inserting, after the word "institution", in the 2nd line of said section, the words "and, subject to such applicable laws as may be enacted relating to civil service for and classification of territorial employees".

(4) By substituting for the word "board", in the 1st line of section 1037 thereof, the word "director".

(5) By substituting for the word "board", in the 2nd line of section 1038 thereof, the word "director".

(6) By amending section 1039 thereof to read as follows:

"Sec. 1039. **Unlawful detention; appeals.** It shall be unlawful to detain any person at the home, whether lawfully committed thereto or not, who is not a feeble-minded person as defined in section 1033, and, without prejudice to his other remedies, any person detained at the home shall, upon application being made by a sheriff, deputy sheriff, or by a relative or next friend of such person, and notice given to the superintendent of the home, or upon application by the superintendent, be entitled to a hearing by the psychiatric commission provided for by chapter 41, and, if a majority of the commission shall be satisfied that such person is not feeble-minded as defined in section 1033, they shall so adjudge and such decision shall be certified to the superintendent of the home and such person shall be forthwith released from detention; provided, that nothing in this section contained shall be deemed to prohibit the commitment of such person to the territorial hospital, in the event that he be found insane within the provisions of chapter 41; and provided, further, that if an appeal in behalf of such person is determined adversely to such person he shall not be entitled to again appeal until after one year following the denial of such previous appeal." [L. 1929, c. 211, s. 1; R. L. 1935, s. 1039; am. L. 1939, c. 203, s. 3-a, par. 6.]

(7) By substituting for the word "board", in the 6th line of section 1041 thereof, the word "director"; and by substituting for the word "it", in the next line of said section, the word "him".

Section 4. Chapter 41 of said Revised Laws, as amended, is hereby further amended by repealing section 1260 thereof and by amending the remainder of said chapter to read as follows:

"Sec. 1230. **Hospital.** There shall be, in the city and county of Honolulu, a suitable institution to be known as the 'Territorial Hospital', for the reception, treatment, and detention of persons committed thereto as insane, and of persons requiring treatment and care for mental diseases not amounting to insanity, who may be committed or admitted thereto. [L. 1925, c. 114, s. 1; R. L. 1935, s. 1230; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1230.1. Definitions. Wherever used in this chapter 'director' means the director of institutions; 'commission' means the psychiatric

commission created by this chapter; 'hospital' means the territorial hospital; 'medical director' means the medical director of the hospital or any duly appointed medical officer of the hospital officially acting in his stead. Wherever used in this chapter or in the printed forms prepared by the director for the commitment of patients or for statistical reports, the words 'mentally ill', 'mentally sick', 'mental diseases', 'mental disorder', or 'mental illness', or any of them, shall have equal significance with the words 'insane', 'insanity' and 'lunacy', or any of them.

Sec. 1231. Control and supervision. The hospital shall be under the control of the director who shall appoint as the medical director of the hospital a person with the qualifications hereinafter provided. Subject to the control of the director the medical director shall have complete supervision of the hospital and the care and treatment of the patients. With the approval of the director the medical director shall appoint such other members of the medical staff as appropriations therefor may permit. [L. 1925, c. 114, s. 2; R. L. 1935, s. 1231; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1231.1. Qualifications of medical director. The qualifications of the medical director shall be as follows: He shall be a duly licensed physician of the Territory, who shall have had at least ten years' experience in the actual practice of his profession, and, immediately preceding his appointment, at least five years of practical experience in the care and treatment of persons afflicted with mental diseases, at least two years of which shall have been as a member of the medical staff of an institution for their care and treatment. The director of institutions may prescribe additional qualifications for the medical director.

Sec. 1231.2. Rules for conduct of hospital. The director shall have power and authority to make rules, and from time to time to amend the same, subject to the approval of the governor, for and concerning all matters whatsoever affecting the proper conduct and administration of the hospital. Copies of such rules shall be printed and distributed to the members of the medical staff and the employees of the hospital.

Sec. 1232. Special wards. There shall be such special or separate wards of the hospital, of such number and at such locations, either at the main institution or elsewhere in Honolulu, as the director shall order, including wards for the reception and care of persons suffering from any mental disease or disorder of an acute and presumably curable character, or whose recovery or improvement would be in the judgment of the medical director be facilitated by their detention separate and apart from other inmates of the institution, and special wards in which patients may be separately maintained and treated with suitable reference to their station in life and means or ability to pay the cost thereof, and special and separate detention wards for the reception and treatment of persons addicted to the excessive use of drugs or liquor. [L. 1925, c. 114, s. 3; R. L. 1935, s. 1232; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1233. Other employees. All employees of the hospital, other than the members of the medical staff, shall be appointed by the director. [L. 1925, c. 114, s. 4; R. L. 1935, s. 1233; am. L. 1939, c. 203, pt. of s. 4.]

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Sec. 1234. Examination and treatment of patients. It shall be the duty of the medical director, or any assistant under his supervision and direction, to keep a record of the name, age, sex, nationality, and other descriptive data of every patient, and to carefully examine the patients of the hospital, and to inquire into and make a record of all procurable data relating to the antecedents, character, family, history, health, environment and habits of each patient, and the predisposing and exciting causes of such patient's mental disorder, and also to record a diagnosis of the mental disorder of each patient and the treatment prescribed therefor, and periodically to make re-examination and review the records of each patient and record all observations, and in suitable cases to discharge or parole patients. [L. 1925, c. 114, s. 5; R. L. 1935, s. 1234; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1235. Inmates' liability for expense. Every person not indigent committed or admitted to the hospital or any ward thereof, and any property of his estate not exempt from execution, shall be liable for the expenses attending his reception, maintenance and care; and the attorney general, whenever requested by the director shall take such steps as may be appropriate, by suit if necessary, to compel the payment thereof and secure payment by the attachment or other sequestration of any property of such person not exempt from execution. [L. 1925, c. 114, s. 6; R. L. 1935, s. 1235; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1236. Regular commitment; application for order; certificate. Any person alleged to be insane, and who is not in confinement on a criminal charge, may be committed to the hospital upon an order made by the district magistrate of the district where such person resides, or the circuit judge of the circuit in which such district is situated, adjudging such person to be insane, and made pursuant to an application for such order.

Any person with whom an alleged insane person may reside or at whose house he may be, or the father or mother, husband or wife, brother or sister, or the adult child of any such person, or the nearest relative or friend available, or the guardian of such person, or an officer of any well recognized charitable institution, agency or home, or any public welfare officer, may apply for an order of commitment by presenting a verified application containing a statement of the facts upon which the allegation of insanity is based, and the reasons for which the application for the order is made. Such application shall be accompanied by the certificate of one or more duly licensed physicians of the Territory, who shall have been in the actual practice of their profession for at least two years, stating that in his or their professional opinion such person is insane, and may be presented to such magistrate or judge for disposition in the manner hereinafter provided. The director of institutions shall prescribe and furnish blank forms for petitions, applications, certificates, and the notice provided for in section 1237, to all district magistrates, circuit judges and government physicians for the use of any person applying for an order of commitment. [L. 1925, c. 114, s. 7; R. L. 1935, s. 1236; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1237. Service of notice. Except as hereinafter provided, notice of such application shall be personally served upon such person at least one day before the presentation of such application to the magistrate or judge. Notwithstanding the foregoing provision, if the

magistrate or judge to whom application is made be satisfied, from any statement contained in the application or certificate, or from inquiry, that personal service of the notice on the alleged insane person would be ineffective or be detrimental to the mental health of such person, he may, in his discretion, dispense therewith, and he shall dispense therewith if the physician signing the certificate states in writing, under oath, that personal service upon the alleged insane person would, in his opinion, be ineffective or be detrimental to the mental health of such person. However, whether such personal service upon such alleged insane person is dispensed with or not, if the application be made by a person other than the husband, wife, father, mother, or other nearest relative of such alleged insane person, such notice shall be served upon either the husband, wife, father, mother, or other nearest relative of such alleged insane person, if there be any such person known to be within the county in which such alleged insane person resides, and, if not, upon the person with whom such alleged insane person may reside, or at whose home he may be, or, in their absence, upon the friend of such alleged insane person, and, if there be no such person or persons, such service may be dispensed with altogether. [L. 1925, c. 114, s. 8; am. imp. L. 1932, 1st, c. 1; R. L. 1935, s. 1237; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1237.1. Determination of insanity; order of commitment. The magistrate or judge to whom such application is made shall, if no demand is made for a hearing by or on behalf of the alleged insane person, proceed forthwith to determine the question of insanity, and, if satisfied that the alleged insane person is insane, shall immediately issue an order of commitment of such person to the hospital. If, however, it appears that such insane person is harmless and any of his relatives or the guardian of his person are willing and able properly to care for him, at some place other than such hospital, upon the written consent of any such relative or guardian, the magistrate or judge may order that he be placed in the care and custody of such relative or guardian. Such magistrate or judge may, in his discretion, require other proof in addition to the application and certificate as aforesaid.

However, upon the demand of such alleged insane person, or of any relative or near friend in his behalf, the magistrate or judge shall, or he may upon his own motion, issue an order directing the hearing of such application before him at a time not more than five days from the date of such order, and not more than two days from said date if such person is being held in temporary detention, as provided in section 1238, a certified copy of which order shall be served upon the parties interested in the application and upon such other persons as the magistrate or judge, in his discretion, may designate. Upon such date, or upon such other day to which the proceedings may be adjourned, the magistrate or judge shall hear the testimony introduced by the parties and examine the alleged insane person if deemed advisable in or out of court, and render a decision in writing as to such person's insanity. If it be found that such person is insane the magistrate or judge shall forthwith issue his order committing him to the hospital, or make such other order as is hereinabove provided. If such magistrate or judge shall refuse to issue an order of commitment he shall state his reasons in writing for such refusal.

The magistrate or judge shall, before issuing an order for commitment, make special inquiry of the financial condition of the insane

person, which information shall be incorporated in the order for commitment.

Sec. 1237.2. Reception at the hospital. The medical director of the hospital shall be furnished with certified copies of every application, certificate, and order of commitment, and he shall at once make provision for the reception of such person at the hospital. He may refuse to receive any person committed if the application, certificate and order of commitment do not comply with the provisions of this chapter, or if in his judgment such person is not insane within the meaning of this chapter, or if received such person may be discharged by the medical director.

Sec. 1238. County detention wards. The board of supervisors of each county shall provide and maintain or arrange for and designate, at or in conjunction with any hospital or otherwise, a temporary ward or wards in such county, approved by the commissioner of public health, other than in a prison or jail, for the temporary reception and detention of any person (a) committed thereto for observation and examination as to his mental condition as hereinafter provided, or (b) alleged to be insane pending the disposition of an application for an order of commitment, in cases where the physician making the certificate also certifies that such detention is necessary for the health or safety of such person or the safety of the community, (c) adjudged to be insane and who is awaiting transfer to the hospital. No person suffering from mental disorder, whether adjudged to be insane or not, shall be taken to or held in any prison or jail, unless such person shall be held in or committed to prison or jail under a warrant for or upon conviction of a criminal offense. The cost of maintenance and care of persons temporarily detained shall be borne by the county concerned. [L. 1925, c. 114, s. 9; R. L. 1935, s. 1238; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1239. Temporary commitment for observation and examination. Any person apparently insane, and conducting himself in a manner which in a sane person would be disorderly, may be taken into custody by any police officer and confined in the county detention ward for observation and examination as to his mental condition. Unless an application for an order of commitment as provided in section 1236, or an application for an order of temporary commitment for observation and examination under this section, shall be duly made within 48 hours from the time of such confinement, the person so confined shall be entitled to be released.

It shall be the duty of the physician in charge of any such ward whenever a person is so confined therein, or of any government physician to whom a report shall be made by a person eligible to make application for an order of commitment under section 1236, that a person in his district is apparently insane, or it shall be lawful for any duly licensed physician to whom such report is made, to forthwith examine such person and, if in his opinion such person is in immediate need of care and treatment or observation and examination for the purpose of ascertaining his mental condition, to make a certificate to such effect, and as soon thereafter as practicable such physician or person eligible as aforesaid or any police officer shall apply to the district magistrate of the district in which such apparently insane person is found, or the judge of the circuit in which such district is situated, for an order of temporary commitment, which

application shall be accompanied by such certificate, and thereupon the magistrate or judge may commit such apparently insane person temporarily to any such ward for an indefinite period, not to exceed thirty days, for observation and examination as to his mental condition. Unless, during such period of temporary commitment, an application for an order of commitment of such apparently insane person to the hospital is made pursuant to section 1236, or such person is otherwise admitted to the hospital, he shall be entitled to be released. Nothing in this section contained shall be deemed to prohibit the filing at any time of an application for commitment pursuant to section 1236, or the admission to the hospital of such apparently insane person in any other manner provided by this chapter. The expenses of any such temporary commitment and detention shall be paid by the county of which such apparently insane person is a resident if not otherwise paid by him or on his behalf. [L. 1925, c. 114, s. 10; R. L. 1935, s. 1239; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1239.1. Emergency admission on incomplete court commitment. Notwithstanding the requirements of this chapter pertaining to regular commitments, in a case where the condition of a person is such that it would be for his benefit to receive immediate care and treatment, or where there is no other proper place available for his care and treatment, or if he is dangerously insane so as to render it necessary for public safety that he be immediately confined, he shall be forthwith received by the hospital or a licensed private institution authorized by law to care for the insane. In such case such insane person shall be so received by said hospital or institution upon a certificate, executed by two duly licensed physicians of the Territory who shall have been in the actual practice of their profession for at least two years, after the examination and upon a petition as provided in section 1236. By virtue of such certificate and such petition such insane person may be retained in such hospital or institution for a period not to exceed ten days, from and inclusive of the date of the certificate. Prior to the expiration of such time an order for his commitment must be obtained in the manner provided by section 1236, unless he be discharged, or admitted under the provisions of sections 1240 or 1256. The certificates executed by such qualified physicians must contain adequate reasons why the insane person should be immediately received in the hospital or institution for the insane for treatment. The medical director, or the superintendent or person in charge of such private institution, may refuse to receive such insane person upon such certificate and petition, if in his judgment the reasons stated in the certificate are not sufficient or the condition of the patient is not of such character as to make it necessary that the patient should receive immediate treatment.

Sec. 1240. Admission on certificate of physician. The medical director may receive and retain as a patient at the hospital any person suitable for care and treatment, who does not object thereto, on a verified application addressed to the medical director, and made by a person who would be eligible to make an application for an order of commitment under section 1236, and accompanied by a certificate of a duly licensed physician of the Territory qualified to execute a certificate under said section 1236, stating that in his opinion such person is insane, such certificate to be dated not more than ten days before the date of admission. A patient so received at the hospital shall not be detained therein more than thirty days, if he, or any relative or next friend on his behalf, shall make written request to the

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medical director for discharge. No such patient shall be further detained unless committed in accordance with the provisions of this chapter for regular commitments. [L. 1925, c. 114, s. 11; R. L. 1935, s. 1240; am. L. 1939, c. 203, pt. of s. 1.]

Sec. 1241. Conveying patients to hospital. The magistrate or judge by whom any person is committed to the hospital may appoint a proper person to convey the patient to the hospital. If the patient be a woman, the committing magistrate or judge must, unless such patient is accompanied by her father, husband, brother or son, appoint a woman of reputable character and mature age to accompany her thereto. The cost of conveying a patient, and the proper expenses of the person so conveying the patient to the hospital, shall be borne by the county from which the patient is committed. [L. 1925, c. 114, s. 12; R. L. 1935, s. 1241; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1242. Psychiatric commission. There is hereby created a psychiatric commission consisting of two duly licensed physicians of the Territory, who shall have had at least five years' experience in the actual practice of their profession, at least two years of which shall have been devoted to a substantial degree to the care and treatment of persons afflicted with mental diseases, and one attorney admitted to practice in all courts of the Territory. The members of the commission shall be appointed and may be removed by the governor in the manner provided in section 80 of the Organic Act. One member of the commission shall be appointed for a term to expire January 1, 1940, one for a term to expire January 1, 1941, and one for a term to expire January 1, 1942. Upon the expiration of the term of each commissioner his successor shall be appointed for a term to expire three years from the expiration date of the preceding term. Any vacancy in the commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term. One of the members so appointed shall be designated by the governor as the chairman of the commission. The commissioner of public health shall, upon the request of the governor, certify to the qualifications of the medical members of the commission. [L. 1925, c. 114, s. 19; am. L. 1933, c. 43, s. 1; R. L. 1935, s. 1242; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1243. Temporary assistants. Officers and employees of the department of institutions may be temporarily detailed by the director to assist the commission as required, and in such event shall serve without additional compensation, but no such officer or employee shall be deprived of his regular compensation because of such service with the commission.

Sec. 1244. Appeal from order of commitment. Any person who has been adjudged insane, or any relative or next friend of such person on his behalf, may appeal to the psychiatric commission from any order of commitment as aforesaid by filing notice of such appeal in the court of commitment within ten days from the date of the decision, and shall within fifteen days serve a copy of such notice on the chairman of the psychiatric commission, and no costs shall be charged to the appellant. No appeal so taken shall operate as a stay of the order of commitment. [L. 1925, c. 114, s. 13; R. L. 1935, s. 1244; am. L. 1939, c. 203; pt. of s. 4.]

Sec. 1245. Commitment of persons acquitted of crime. Whenever any person indicted for any crime shall be acquitted after having

submitted evidence of his insanity or mental derangement, the court before whom such trial has been had shall forthwith, without other or further proceedings, commit such person to the hospital, there to be detained as an insane person until discharged according to law. [L. 1925, c. 114, s. 14; R. L. 1935, s. 1245; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1246. Examination of indicted person pleading defense of insanity. Whenever a person has been indicted by a grand jury for a capital offense, or whenever any person who is known to have been indicted for any other offense more than once or to have been previously convicted of a felony is indicted by a grand jury or bound over for trial in any circuit court of the Territory, the judge of the court in which such person is to be tried for such offense may, in his discretion, before any trial on the criminal charge, cause such person to be examined by the psychiatrist or any designated psychiatrist of the hospital and by two additional unbiased physicians who in the opinion of the judge are qualified as examiners in insanity, with a view to determine the mental condition of such person and the existence of any mental disease or defect which would affect his criminal responsibility. In every such case such person shall by the order of the court be placed in detention in the hospital or elsewhere as the court may direct for the purpose of such examination for a period of ten days or until completion of such examination if not concluded within the ten days, and the persons so making the examination shall file with the court their written report and opinions thereon, which report shall be accessible to the court, the prosecuting attorney, and the attorney, and the attorney for the accused. If the court shall deem such report conclusive of the then present insanity or mental irresponsibility of the accused, the court may allow a nolle prosequi to be entered in the case, and in such case shall forthwith, without other or further proceedings, adjudge the accused to be insane and commit him to the hospital until discharged as provided by law; or the court may direct the trial of the accused to proceed and in such case the jury shall determine any issue of then existing or alleged previous mental irresponsibility. The compensation of the physicians making such examination shall be such reasonable sums as are allowed and shall be paid by the county concerned. [L. 1925, c. 114, s. 15; am. L. 1933, c. 107, s. 1; R. L. 1935, s. 1246; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1247. Drug and liquor addicts. Any person alleged to be addicted to the excessive use of drugs or liquor, and who is not in confinement on a criminal charge, may be committed to the hospital upon an order made by the district magistrate of the district where such person resides, or the circuit judge of the circuit in which such district is situated, adjudging such person to be an addict as aforesaid, and made pursuant to an application for such order.

Any person with whom any person alleged to be a patient addicted to the excessive use of drugs or liquor may reside or at whose house he may be, or the father or mother, husband or wife, brother or sister, or the adult child of any such person, or the nearest relative or friend available, or the guardian of such person, or an officer of any well recognized charitable institution, agency or home, or any public welfare officer, or any county sheriff or deputy, or the chief of police, may apply for an order of commitment by presenting a verified application containing a statement of the facts upon which the allegation that such person is addicted to the excessive use of drugs or liquor is based and the reasons for which the application for the

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order is made. Such application shall be accompanied by the certificate of one or more duly licensed physicians of the Territory, who shall have been in the actual practice of their profession for at least two years, stating that in his or their professional opinion such person is addicted to the excessive use of drugs or liquor, and in need of care and treatment, or that it is dangerous to himself or to others for such person to be at large by reason of periodical, frequent or constant drunkenness, induced by the use of alcoholic or other intoxicating liquors, or of opium, morphine or other narcotic or intoxicating or stupefying substance. Such certificate shall further show that the condition of the alleged patient is such that his detention, care and treatment in the hospital would be to his benefit, and that the physician making the certificate has made a personal examination of the patient within ten days prior to the application for the order of commitment. If from such application or otherwise it appears necessary, the magistrate or judge may issue a warrant directed to the county sheriff or deputy or chief of police requiring him forthwith to arrest and bring such person before the court for examination. It shall be the duty of the magistrate or judge to examine any such alleged patient and at such hearing the patient shall have the right to be heard personally or by counsel, and to produce and have subpoenaed witnesses on his own behalf.

Any person believing himself to be a patient addicted to the excessive use of drugs or liquor and in need of care and treatment may make a verified application on his own behalf for an order of commitment, such application to be accompanied by the certificate of one or more duly licensed physicians of the Territory, who shall have been in the actual practice of their profession for at least two years, stating that in his or their professional opinion such person is a patient addicted to the excessive use of drugs or liquor, and in need of care and treatment, and that his condition is such that his detention, care and treatment in the hospital would be to his benefit, and that the physician making the certificate has made a personal examination of the patient within ten days prior to the application for the order of commitment. In such case the magistrate or judge may in his discretion require that the person making application on his own behalf be brought before him for examination.

The magistrate or judge shall render and file his decision in writing, including a statement of the facts as found by him and the reasons therefor, and if the decision is for commitment shall forthwith forward a certified copy thereof to the medical director. [L. 1925, c. 114, s. 16; am. imp. L. 1932, 1st, c. 1, s. 1; R. L. 1935, c. 1247; am. L. 1939, c. 203, pt. of s. 4.]

See 1248. Order of commitment. If it shall be determined by the magistrate or judge that the person alleged or believed by himself to be a patient addicted to the excessive use of drugs or liquor, is in need of care and treatment and that his condition is such that his detention, care and treatment in the hospital would be to his benefit, such person shall be committed to the hospital as a patient. The term of the detention shall be for an indeterminate period, and until such person shall be discharged therefrom as hereinafter provided. The director shall prescribe and furnish blank forms for applications and certificates to all district magistrates, circuit judges, and government physicians for the use of any person applying for an order of com-

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mitment. [L. 1925, c. 114, s. 17; R. L. 1935, s. 1248, am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1249. Appeal of addict from order of commitment. The patient alleged to be addicted to the excessive use of drugs or liquor or any relative or next friend on his behalf may appeal to the psychiatric commission from any order of commitment as aforesaid in the same manner and subject to the same conditions as provided by section 1244. [L. 1925, c. 114, s. 18; R. L. 1939, s. 1249; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1250. Hearing of appeals. It shall be the duty of the psychiatric commission to hear and determine all cases brought before it on appeal. And upon such appeal the appellant shall have the right to be represented by counsel and to produce witnesses on his own behalf. If in any case of a commitment for alleged insanity it shall appear to the commission that the alleged insane person is sane, the former adjudication of insanity of such person shall be vacated and set aside and he shall be discharged from the hospital; and if it shall appear to the satisfaction of the commission that such person is insane and that he is in need of care and treatment, the commission shall dismiss the appeal and remand the person to the custody of the medical director. On any appeal by a person committed because of excessive use of drugs or intoxicating liquor the commitment may likewise be vacated or sustained as the commission shall determine. On any appeal the decision of the commission thereon shall be final. [L. 1925, c. 114, s. 21; R. L. 1935, s. 1250; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1251. Discharge and parole. Any person committed to the hospital as an insane person may be discharged at any time by the medical director if he shall be satisfied that such person is of sound mind or is not dangerous to public safety. The medical director may at any time and in his discretion discharge any person committed to the hospital as a person addicted to the excessive use of drugs or intoxicating liquor. An application for the discharge or parole of any person committed to the hospital may be made to the medical director by any such person or any relative or next friend of such person on his behalf; provided, that no such application may be made by or on behalf of any person who was committed to the hospital for addiction to the excessive use of drugs or liquor, unless at least six months have expired from the date of such commitment. Upon the filing of such application the medical director shall examine such person, or cause him to be examined by a member of the medical staff of the hospital who shall report his findings to the medical director. The decision on every application shall be made by the medical director, either from the examination made by him, or from the findings reported to him, and a record of every examination and decision shall be kept by him. When the medical director has so examined the patient and denied the application for discharge or parole of such patient he may, in his discretion, decline to make or cause a re-examination of such patient to be made within six months thereafter. Any such discharge of a person who was committed to the hospital as an insane person shall be *prima facie* evidence of the sanity of such person when so discharged.

The medical director may, under such restrictions and conditions and for such time as he may deem proper consistently with the safety of the public, permit any inmate of the hospital temporarily to leave

the institution upon parole, in charge of his guardian, relatives, friends, or alone. In every case, such person shall be subject always to recall by the medical director at any time, or may be returned to the hospital at any time by his guardian, or other person in whose care he may have been paroled. The original order of commitment of every such person shall remain in force and effect, except only as temporarily suspended by the terms of the parole, until the person shall be officially discharged. Upon any failure or refusal of any person so admitted to parole to conform to the terms of the parole, or to return to the hospital upon the expiration of the period of the parole, or to return upon recall by the medical director at any time before he shall have been officially discharged from the hospital, it shall be the duty of any sheriff, deputy sheriff or police officer, upon the written direction of the medical director, to forthwith arrest such person without other or further warrant or proceedings and return him to the custody of the medical director of the hospital. Nothing in this section contained shall be construed to permit the parole of persons against whom criminal proceedings may be pending, or who have been committed to the hospital under section 1245 or held in detention under section 1246. [L. 1925, c. 114, s. 2; am. L. 1927, c. 56, s. 1; am. imp. L. 1933, c. 43, s. 2; R. L. 1935, s. 1251; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1252. Appeal from the decision of the medical director. Any patient who has been so examined, or the person who made the application on his behalf, may appeal from the decision of the medical director denying discharge or parole to the psychiatric commission by giving to the medical director notice of appeal within ten days from the date of the decision. The commission shall examine or cause such examination to be made of the patient as may be necessary to determine whether the decision of the medical director was correct and proper in the premises. Any decision appealed from may be modified or reversed by the commission, and the medical director shall comply with the terms thereof. No costs shall be charged to the appellant. On any appeal the decision of the commission thereon shall be final.

Sec. 1253. Evidence and decision to be filed. The commission shall cause to be reduced to writing the substance of the evidence taken upon the hearing of any appeal under sections 1244, 1249 or 1252, and where such appeal is denied the commission shall state its reasons in writing for such denial, all to be filed with the hospital. [L. 1925, c. 114, s. 24; R. L. 1935, s. 1253; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1254. Powers of commission. The commission and each member thereof shall have power to administer oaths, to punish for contempts, to grant adjournments, to subpoena and compel the attendance of witnesses and the production of books and papers, and generally to exercise the same authority with regard to their special jurisdiction as is by law conferred upon circuit judges at chambers. Orders made and process issued by the commission may be signed for the commission by the chairman. [L. 1925, c. 114, s. 25; R. L. 1935, c. 1254; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1255. Compensation of commissioners; expenses. The members of the commission shall be paid twenty dollars per day or portion thereof of actual service, but no such compensation paid to any member shall exceed one hundred dollars in any calendar month. All necessary expenses and compensation of the commission shall be paid out of any available funds appropriated for the use of the department

of institutions in connection with the operation and maintenance of the hospital. [L. 1925, c. 114, s. 26; am. L. 1933, c. 43, s. 2; R. L. 1935, s. 1255; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1256. Voluntary admission. The medical director may in his discretion receive in the hospital for observation, care and treatment, any person who is suffering from any mental or nervous disorder, or affection, without such person being legally committed to the institution, when application therefor shall be made by such person or, if a minor, by his parent or legal guardian; provided, that no person against whom any criminal charge is pending shall be eligible for admission as a voluntary patient unless under bond or bail in connection therewith.

The medical director may also receive for care and treatment any person addicted to the excessive use of drugs or liquor, without such person being legally committed to the hospital, when application therefor shall be made by such person; provided, however, that no such person shall be received for less than a six months' period. Any person voluntarily admitted who shall leave the hospital without the written consent of the medical director shall not again be entitled to admission to the hospital except in the discretion of the medical director. [L. 1925, c. 114, s. 27; R. L. 1935, s. 1256; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1257. Further requirements for voluntary admission. In any application for voluntary admission the applicant shall agree that while remaining in the hospital he will be subject to and will abide by all the rules of the hospital and such regulations applicable to or concerning his conduct, care and treatment as shall from time to time be prescribed by the medical director; and that he will be subject to dismissal or expulsion for any failure therein. A person, other than a drug or liquor addict, thus received shall not be detained in the hospital more than fifteen days after he, or, if a minor, his parent or legal guardian, shall make written request for release. No such person shall be further detained unless committed in accordance with the provisions for regular commitment as in this chapter provided. Any person previously an inmate of the hospital for alcoholism or drug addiction may be denied the right of voluntary admission under this section. [L. 1925, c. 114, s. 28; R. L. 1935, s. 1257; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1258. Private physician. Every person received as a patient may be allowed to have treatment by a private physician who shall for such purpose be deemed a consulting physician and have such rights and privileges as shall be authorized by the medical director. [L. 1925, c. 114, s. 29; R. L. 1935, s. 1258; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1259. Voluntary contributions. The medical director shall have authority to accept voluntary contributions for, and on behalf of, any patient, and shall cause a detailed account to be kept of all expenditures on behalf of such patient for whom any contribution is made, which account shall be open to inspection by any donor at any time. Any donor may at any time demand the then unexpended balance in such donor contribution, which shall be paid to such donor immediately. In case any patient in whose behalf contributions have been made shall die or be discharged, and no demand is made by the donor within one year for any unexpended balance, such unexpended balance shall be then deposited with the treasurer of the Territory

for credit to the general fund of the Territory. [L. 1927, c. 99, s. 1; am. L. 1929, c. 8, s. 1; am. L. 1931, c. 167, s. 1; R. L. 1935, s. 1259; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1261. Presumption. No presumption of insanity or legal incompetency shall exist with respect to any patient by reason of his voluntary admission to the hospital under the provisions of this chapter. [L. 1925, c. 114, s. 31; R. L. 1935, s. 1261; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1262. Admission or exclusion; appeal. No person shall be entitled, as of right, to be admitted to the hospital or to remain therein. If the medical director shall decline to admit or retain any person, or shall order the removal of, or expel any person from, the hospital, any party feeling aggrieved thereby may appeal within five days to the psychiatric commission, which shall have full power to hear and finally determine any such issue. No costs shall be charged to the appellant. [L. 1925, c. 114, s. 32; am. Imp. L. 1933, c. 43, s. 2; R. L. 1935, s. 1262; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1263. Director to visit hospital; report to governor. It shall be the duty of the director to visit the hospital from time to time and submit semi-annually a report to the governor of the condition of the same and the number of patients therein, and the medical director, the members of the medical staff, and all employees of the hospital shall admit the director at any hour of the day or night to visit the hospital, and afford him every opportunity to make a thorough inspection and examination of the hospital and of any person detained therein. [L. 1925, c. 114, s. 33; R. L. 1935, s. 1263; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1264. Commitments and discharges under this chapter. No person shall be committed to the hospital or be discharged therefrom except as in this chapter provided. [L. 1925, c. 114, s. 34; R. L. 1935, s. 1264;; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 1265. Transfer to Waimano Home. The governor may order any patient who has been committed to the hospital as an insane person to be transferred to Waimano Home upon the application of the medical director for such transfer, such application to be accompanied by the certificate of the medical director that in his opinion such patient is feeble-minded and not insane.

Sec. 1266. Guardianship for an insane patient. Whenever it shall appear that any person committed to the hospital has property or interest in property of any description situate in the Territory, and no guardian shall have been previously appointed, the medical director may make application to the circuit court of the first judicial circuit for the appointment of a suitable person as special guardian of the estate of such person until he is discharged from the hospital or a guardian is appointed under chapter 142. A guardian appointed under this section shall have all the powers and duties of regularly appointed guardians, but he shall not be required to give bond. He shall conserve the estate of the person for the purpose of maintaining the patient in the hospital and he is authorized to pay such maintenance and care under the direction of the court. He may in his discretion, any other provision of this chapter notwithstanding, withhold and pay over to the patient upon discharge a sum not exceeding \$50.00. The guardian shall be discharged after accounting to the court without ad-

vertising but after audit by the territorial auditor, upon the death or discharge of the patient from the hospital.

Sec. 1267. Procedure in regard to service of legal process and papers upon patients. Neither the medical director nor anyone connected with the hospital shall accept service of process or legal papers. When a legal process or paper is served on a patient in the hospital it shall be filed with records of the patient and thereupon the medical director shall inform the court out of which the process issued, in writing, of the date of service and the mental and physical condition of the patient.

Sec. 1268. Partial invalidity. If any portion of this chapter or its application to any person or circumstances shall be held unconstitutional or invalid, the remainder of this chapter or the application of such portion to other persons or circumstances shall not be affected."

Section 5. Chapter 132 of said Revised Laws is hereby amended:

(1) By amending section 4570 thereof to read as follows:

"Sec. 4570 Definitions. Wherever used in this chapter, unless the context otherwise clearly indicates:

'Director' means the director of institutions, provided for in chapter 254 A, insofar as matters within the purview of this chapter are concerned.

'Department' means the department of institutions, insofar as matters within the purview of this chapter are concerned."

(2) By deleting from the sections of said chapter, in the respective lines of said sections, set forth in the first two columns of the following schedule of deletions and substitutions, the word or words set forth in the third column of said schedule opposite the numbers of said respective sections and lines, and by substituting for said deleted word or words, respectively, the word or words, if any, set forth in the fourth column of said schedule opposite said deleted word or words, to wit:

Schedule of Deletions and Substitutions

Section No.	Line or Lines	Word or Words Deleted	Word or Words, if any, Substituted Therefor
4574	2, 6	"board"	"director"
4574	6	"which"	"who"
4576	1	"board"	"director"
4576	4	"it"	"he"
4576	6, 7	"providing for the organization of the board by the selection of officers thereof;"	
4577	2	"board"	"director"
4578	1, 8	"board"	"director"
4580	4	"board as guardians"	"director as guardian"
4582	3	"board, its agents"	"department"
4583	1, 2, 6	"board"	"director"
4583	1	"its"	"his"

4584	1, 4, 6	"board"	"director"
4585	1, 2	"board"	"director"
4585	2	"its"	"his"
4587	6 & 7	"board in charge of these schools in the discretion of the board"	"director"
4588	1, 6	"board"	"director"
4588	2	"its"	"his"
4589	2, 6, 8, 20	"board"	"director"
4590	1, 2, 6	"board"	"director"
4590	1	"its"	"his"
4591	5, 6, 8, 10, 14, 15, 16	"board"	"director"
4591	5, 13	"its"	"his"
4591	12	"it"	"he"
4592	as am. by Act. 98, Sr. C-102, S.		
L. 1937	4, 5, 6	"board"	"director"
4592 as so am.	5	"its"	"his"
4595	6	"board"	"director"
4595	6	"its"	"his"
4596	1, 4	"board"	"director"
4596	2	"its"	"his"
4597	6	"any member of the board, its"	"director, his"
4598	7 & 8	"board of industrial schools"	"director"
4598	9	"a member of the board or by its"	"director or his"
4600	as enacted by Act 35, Sr. C- 111, S. L.		
1935	5	"board"	"director"
4601	as enacted by said Act 35		
4602	4	"board"	"director"
4602	as enacted by Act 182, Sr. C- 103, S. L.		
1937	1, 2, 3, 7, 10	"board"	"director"
Same	1	"its"	"his"

(3) By repealing sections 4571, 4572, 4573 and 4579 thereof.

Section 6. Chapter 217 of said Revised Laws is hereby amended in the following respects:

(1) By adding thereto a new section numbered 6399, reading as follows:

"Sec. 6399. Director defined; may delegate powers. Wherever used in this chapter 'director' means the director of institutions provided for in chapter 259 A, insofar as matters within the purview of this chapter are concerned; provided that the signing or approval of

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vouchers and other routine matters may by him be delegated to any authorized subordinate."

(2) By deleting from the sections of said chapter, in the respective lines of said sections, set forth in the first two columns of the following schedule of deletions and substitutions, the word or words set forth in the third column of said schedule opposite the numbers of said respective sections and lines, and by substituting for said deleted word or words, respectively, the word or words, if any, set forth in the fourth column of said schedule opposite said deleted word or words, to wit:

Schedule of Deletions and Substitutions

Section No.	Line or Lines	Word or Words Deleted	Word or Words, if any, substituted therefor
6405A, as enacted by Act 199, Sr. C-126, S.L. 1935	2nd from last	"prison directors"	"paroles and pardons"
6405B, as enacted by Act 38, Sr. C-122, S.L. 1937	2	"board of prison directors"	"directors"
Same	last 2	"prison directors"	"paroles and pardons"
6411	wherever appearing following sec. 6412	"board of prison directors"	"director"
Subtitle		"Board of Prison Directors"	"Board of Paroles and Pardons; Director of Institutions"
6413	3	"prison directors"	"paroles and pardons"
6417	2, 8	"board"	"director"
6418	2	"thereof"	"thereof and the director"
	6	"board"	"board and the director"
	9, 11, 12	"prison directors"	"paroles and pardons or the director"
	2nd. par., Line 3	"board"	"board or director"
	3d. par.; lines 5-6	"prison directors, the board"	"paroles and pardons or director, the board or director"
	13	"board"	"board or director"
	4th par.; line 1	"board"	"board or director"
	line 1	"it"	"it or him"
	line 2, 6, 9	"thereof"	"thereof and the director"

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	line 12	"Territory"	"Territory on vouchers approved by the director"
6420	2d par.; line 1	"board"	"director"
	3rd par.; last line	"board"	"director"
	4th par.; last line	"board"	"rules of the director"
6421	2	"board"	"rules of the director"
6426	4	"board"	"director by rule"
6429	wherever ap- pearing with reference to board of pri- son directors	"board", "its", or "it"	"warden", "his" or "he", respectively
	8	"declare"	"subject to the approval of the director, declare"
6432	2, 4	"board"	"director"
6434	last 2	"control of the board of prison directors"	"rules of the director"
6435	5	"board of prison directors"	"director"
6436	4	"board of prison directors"	"director"
6436-A as enacted by Act 29, Sr. C-127, S.L. 1935	5, 8 12	"board" "board of prison directors"	"director"
	20	"chairman of the board of prison directors"	"director"
6436-B, as enacted by Act 30, Sr. C-128, S.L. 1935	14	"Chairman of the board of prison directors"	"director"
6454	wherever appearing	"prison directors"	"paroles and pardons"
6456 and 6459			
6461	4, 5	"a member of the board of prison directors"	"director"
	6	"a member of the board"	"director"
	8	"board"	"director"
6462	last	"prison directors"	"paroles and pardons"
6463	wherever appearing	"board of prison directors" or "board"	"director"

3. By substituting a comma for the period at the end of the head-note to **section 6414** thereof and adding thereafter the words "clerical assistance"; and by adding at the end of said section the following:

"The director shall furnish the board with such clerical assistance as may be necessary within the limits of available appropriations, provided that the board shall appoint its own administrative secretary."

4. By amending section 6415 thereof to read as follows:

"Sec. 6415. Service of board members without pay; expenses. The members of the board shall serve without pay, but their necessary expenses for traveling and incidentals shall be paid from the appropriation for prisons or the support of prisoners, on vouchers approved by the director." [L. 1931, c. 129, pt. of s. 1; R. L. 1935, s. 6415; am. L. 1939, c. 203, s. 6, par. 4.]

5. By amending section 6416 thereof to read as follows:

"Sec. 6416. Powers of director; warden; rules; clerical and other assistants. The director, through the warden, shall have the entire government, control and supervision of all territorial prisons and prison camps and of the administration thereof. The director shall have power: To make and from time to time alter or amend rules relating to the conduct and management of such institutions and the care, control, treatment and discipline of prisoners, which rules must be approved by the governor, but shall not require publication in order to be valid and binding upon all inmates, officers and employees of such institutions, and which rules shall be printed from time to time.

The warden, subject to the approval of the director, where required by such rules, and subject to such rules, shall have power, and it shall be his duty: To enforce such rules; to prescribe the punishments to be imposed upon prisoners for any breach of prison rules or other misconduct; to decide what prisoners shall be entitled to the commutation of sentence authorized by law for good behavior and who shall forfeit or be deprived of such commutation in whole or in part, and to restore to any prisoner all or any commutation which the prisoner may have lost; to classify and grade the prisoners, designating the privileges which they shall have and the garb which they shall wear.

The warden may employ a secretary and such clerical and other office employees, at such salaries, as may be authorized by such rules of the director for such institutions, within the limits of the funds available by law therefor, subject to any applicable salary classification and civil service schedules, laws and regulations that may be in effect from time to time." [L. 1931, c. 129, pt. of s. 1; am. L. 1932, 1st, c. 17, s. 1; R. L. 1935, s. 6416; am. L. 1939, c. 203, s. 6, par. 5.]

6. By amending the first sentence of **section 6420** thereof to read as follows:

"The director shall appoint and may at pleasure remove a warden, who shall be exempt from civil service and who, under the control and supervision and subject to the rules of the director, shall have the immediate charge and direction of all territorial prisons and prison camps and the administration thereof."

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7. By amending section 6425 thereof to read as follows:

"Sec. 6425. Director to fix compensation. The director is empowered by rule to classify, grade and fix payments to be made to prisoners who may be confined in the territorial prisons."

[L. 1917, c. 181, s. 1; am. L. 1931, c. 110, s. 1; R. L. 1935, s. 6425; am. L. 1939, c. 203, s. 6, par. 7.]

8. By amending the last paragraph of section 6459 thereof to read as follows:

"Each assistant parole officer shall have such of the powers and duties of the parole officer hereinabove provided for as shall be prescribed by the board."

Section 7. The amendments made by section 6 of this Act shall not be deemed to abolish the terms of the present members of the board of prison directors, but such present members shall continue in office as members of the board of paroles and pardons for the remainder of their respective terms.

Section 8. **Section 5536 of said Revised Laws** is hereby amended by substituting for the words "prison directors", wherever the same appear in said section, the words "paroles and pardons".

Section 9. On the effective date of this Act all officers and employees then in the employ (a) of the board of commissioners for Waimano Home, (b) of the board of industrial schools or any institution under its jurisdiction, or (c) of the territorial hospital under the board of health, or (d) of the board of prison directors or any institution under its jurisdiction, shall continue in their respective offices or employments under the jurisdiction and control of the director of institutions, or other authority to which jurisdiction over them is conferred by this Act, for a period of not more than three months after such effective date. The employment of all such officers and employees who are not reappointed by the director or such other authority within said period shall cease.

All appeals under chapter 32 of said Revised Laws to the board of commissioners for Waimano Home, or under chapter 41 of said Revised Laws to the commissioners of insanity, which are pending and undisposed of on July 1, 1939, shall be transferred to and heard and disposed of by the psychiatric commission created by this Act, and the decisions on any of such appeals shall be given effect in the same manner as corresponding appeals commenced after said effective date.

This Act, except as otherwise expressly or by necessary implication required or provided herein, shall not affect the validity or effectiveness of any commitment, award, or decision made, rules promulgated, or act done, or the enforceability of any rights, liabilities, penalties or forfeitures, accruing, acquired or incurred, prior to said effective date under any law amended by this Act, but the same shall be given effect and enforced in the same manner and to the same extent, as nearly as may be, except for the substitution, wherever appropriate, of the officers or agencies created by this Act in lieu of those provided by said laws prior to their amendment by this Act, as if this Act had not been enacted.

Section 10. If any portion of this Act, or of any other law as amended by this Act, or its application to any persons or circum-

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stances, shall be held unconstitutional or invalid, the validity of the remainder of this Act or of said other law, or the application of said portion to other persons and circumstances, shall not be affected.

Section 11. All territorial laws or parts of laws inconsistent with the provisions of this Act or of any other law as amended by this Act, are hereby amended to conform to this Act and to said other law as amended by this Act.

Section 12. This Act shall take effect on July 1, 1939; provided that the director of institutions may be appointed prior to said date for a term to expire four years from July 1, 1939, and may appoint his subordinates prior to, but to take effect on, said date, and all officers and employees employed under any of the laws hereby amended shall cooperate with the director of institutions in preparing for the transfers of powers, duties, functions and property required by this Act, for the purpose of avoiding undue confusion or stoppage of necessary public business.

(Approved May 11, 1939.) **H.B. 49, Act 203.**

CHAPTER 259.

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PART 3.

PENSIONS FOR POLICEMEN, FIREMEN AND BANDSMEN.

[**D-176**] An Act to Amend Sections 7903, 7905, 7906 of the Revised Laws of Hawaii 1935, Relating to Pensions for Policemen, Firemen and Bandsman.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7903 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 7903. Pension fund.** Trustees, powers. There is created in every county and city and county a pension fund which shall be governed and managed by a board of trustees. In each county and in the City and County of Honolulu, the board shall consist of three (3) members, who shall be appointed by the chairman of the respective boards of supervisors and by the mayor of the City and County of Honolulu, as the case may be, with the approval of the board of supervisors in each instance. The terms of office of the trustees first taking office shall expire as designated by the appointing authority at the time of appointment, one after one (1) year of service, one after two (2) years of service, and one after four (4) years of service. The terms of subsequent trustees shall be for four (4) years and until their successors are appointed and qualified except that a person appointed to fill a vacancy caused by death, resignation or otherwise, occurring prior to the expiration of such term, shall be appointed for the remainder of such term. The appointing authority shall designate one of the trustees as chairman of the board in each instance. No person shall be eligible for membership or be a member of the board who occupies any elective or appointive office or position under the territorial or county governments, and no member shall, during his

term of office, serve as an officer or committee member of any political party organization, or present himself as a candidate or be a candidate for nomination or election to any public office in any primary or general election. The members of the board of trustees shall serve without pay.

The county or city and county clerk shall ex-officio be the secretary of the board of trustees and shall keep in a separate book a true and correct account of the proceedings of the board. The county or city and county attorney shall be the legal adviser of the board. The treasurer of the county or city and county shall ex-officio be the treasurer of the board. The auditor of the county or city and county shall audit all accounts of the pension fund and shall draw all warrants payable therefrom, which warrants shall be drawn only upon the order of a majority vote of the three (3) members of the board, which order shall be certified to by the chairman and one other member of the board. It shall be the duty of the treasurer to collect all moneys belonging to such funds, to have the custody of all its notes, bonds and other securities, if any, and to collect the principal and interest of the same, and he shall be liable on his bond as treasurer for the faithful accounting of all moneys and securities which may come into his hands belonging to the fund. The treasurer shall, upon the expiration of his term of office, account to the board for all moneys, notes, bonds and other securities coming into his hands and the proceeds of the same, and turn over to his successor in the office of treasurer all moneys, notes and other securities belonging to the fund remaining in his hands." [L. 1917, c. 220, s. 1; R. L. 1935, s. 7903; am. L. 1939, c. 86, s. 1.]

Section 2. Paragraph 4 of section 7905 of the Revised Laws of Hawaii 1935, is hereby amended by deleting the words "or child under sixteen years of age" in the second line thereof.

Section 3. Section 7905 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto two new paragraphs to be numbered 5 and 6, as follows:

"5. The board of trustees created under this Act shall have full authority, within the limits set down in this section, to review all pensions previously granted or which shall hereafter be granted under the provisions of this section and make such adjustments as shall be considered fair, reasonable or necessary.

6. Should it be determined at any time that a person receiving a pension under the provisions of this section is engaged in a gainful occupation paying more than the difference between his pension and the average monthly wage or salary paid him during the last five years of his employment, the amount of his pension shall be reduced to an amount which, together with the amount being earned by him, shall equal the average monthly wage or salary paid him during the last five years of his employment. Should his earning capacity be later changed, the amount of his pension may be changed accordingly; provided that in no case may the amount of pension plus the amount being earned exceed the average monthly wage or salary paid him during the last five years of his employment."

Section 4. Section 7906 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

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"Sec. 7906. Medical board. Assisting the board of trustees there shall be a medical board to be composed of three licensed physicians, one of whom shall be the physician for the county or city and county, another of whom shall be appointed by the board of trustees and the third of whom shall be named by agreement of the other two physicians. If for any reason any regular member of the medical board shall be unable to, or in the judgment of the board of trustees may not properly, act in any particular case, the board may designate a substitute to act on such particular case on the medical board. The medical board shall arrange for and pass upon all medical examinations required and shall perform all such other services as may be required of it by the board of trustees, under or pursuant to the provisions of this subtitle, and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it. The medical board shall act by a majority of its members." [L. 1933, c. 46, s. 2; R. L. 1935, s. 7906; am. L. 1939, c. 86, s. 4.]

Section 5. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **H.B. 397, Act 86.**

PART 6. MUNICIPAL AND COUNTY PENSION SYSTEMS.

[D-177] An Act to Amend Act 237, Session Laws of Hawaii 1937; to Create a Pension Board for Each of the Counties; to Provide for the Appointment, Duties and Powers of Such Boards; to Authorize the Granting of Pensions to Certain County Employees and their Widows; and to Provide that Government Physicians Shall Assist Such Pension Boards.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 237 of the Session Laws of Hawaii 1937, is hereby amended in the following respects:

(a) By amending section 1 thereof to read as follows:

[Sec. 7919.] "Section 1. Pension boards; appointments; terms, removals; qualifications; assistants. A pension board, hereafter referred to as the 'board', is hereby created for each of the counties of the territory, with full authority, within the limits prescribed by law, to make investigations as necessary to comply with any provisions of this Act and to grant pensions to employees and former employees of their respective counties, providing such employees are ineligible to the benefits of the employees' retirement systems of said county, or to the widows of such employees.

Each board shall consist of five members to be appointed for terms of five years, provided, that the original members shall be appointed within thirty days of the effective date of this Act, for staggered terms so that one shall expire on June 30th of each year beginning with the year 1940. All vacancies occurring otherwise than by expiration of the term shall be filled by appointment for the remainder of the unexpired term. One of such members shall be named by the appointing power as chairman. The first five members of said boards shall be appointed, and may be removed, by the governor in the manner

provided by section 80 of the Organic Act. Thereafter the members shall be appointed by the mayor, or chairman of the board of supervisors, as the case may be, with the approval of the board of supervisors, and such members may be removed by the appointing power with the approval of the following number of other members of the board of supervisors: in the city and county of Honolulu, five; in the counties of Hawaii and Maui, four; and in the county of Kauai, three.

No person shall be appointed as a member of any such board unless he be a registered voter who has resided for five or more years in the county for which appointed, and no person shall be eligible for membership or be a member of any such board, who occupies any elective or appointive office or position under the territorial or any county government. No member of any of the said boards shall, during the term for which he was appointed, serve as an officer or committee member of any political party or organization, nor shall he present himself as a candidate or be a candidate for nomination or election to any public office in any primary or general election during said term.

The members of the boards shall serve without pay, but the respective board of supervisors shall appropriate annually a sum sufficient to, and shall, defray the necessary expenses of the boards, including monies required to cover the payment of pensions granted under the provisions of this Act; provided, however, that the board of water supply of the city and county of Honolulu shall annually appropriate sufficient monies to cover, and there shall be paid from such monies, pensions granted under the provisions of this Act as a result of employment in the service of the said board of water supply.

The county clerk shall ex-officio be the secretary of the board of his county and shall keep in a separate book a true and correct account of the proceedings of the board. The county attorney shall be the legal advisor of the board of his county, provided that the board, with the approval of the board of supervisors, may employ private legal counsel. The county treasurer shall ex-officio be the treasurer of the board of his county. The county auditor shall audit all accounts of the pension fund of such county and the county auditor, or controller (if any) in the city and county of Honolulu, shall draw all warrants payable therefrom, which warrants shall be drawn only upon a voucher certified by the chairman, or acting chairman, and one other member of the board. It shall be the duty of the county treasurer to collect all monies belonging to such fund, to have the custody of all its notes, bonds and other securities, if any, and to collect the principal and interest of the same, and he shall be liable on his bond as treasurer for the faithful accounting of all monies which may come into his hands belonging to the pension fund. The said treasurer shall, upon the expiration of his term of office, account to the board for all monies, notes, bonds and other securities coming into his hands and the proceeds of the same, and turn over to his successor in the office of the treasurer all monies, notes and other securities remaining in his hands and belonging to the pension fund.

Each board shall meet at least once each quarter." [L. 1937, c. 237, s. 1; am. L. 1939, c. 112, pt. of s. 1.]

(b) By amending [Sec. 7919A.] section 2 thereof by deleting in lines 8, 9 and 10 thereof the following:

“(2) that such person shall not be gainfully employed by or receiving a pension of public assistance from the territory or any county or city and county or any private person;”; by substituting for “(3)” immediately thereafter “(2)”; and by changing the period at the end of said section to a semi-colon and adding thereafter the following:

“provided, however, that any employee who had the option to but did not elect to become a member of any retirement system now in effect shall be eligible to receive only fifty (50) percent of the pension amount otherwise computed under the provisions of this Act, and that the widow of any deceased man, who had been previously granted or is found subsequent to his death to have been entitled to a pension under the provisions of this Act, shall be eligible for a pension not to exceed sixty (60) percent of such amount of grant or determined eligibility so long as such widow remains unmarried.”

(c) By amending [Sec. 7919C.] section 4 thereof by changing the period at the end thereof to a semi-colon and adding thereafter the following:

“provided, however, notwithstanding any other provisions of this Act, and regardless of the computed amount, any person or widow eligible to a pension shall be granted and paid not less than fifteen dollars per month.”

(d) By amending section 5 thereof to read as follows:

[Sec. 7919D.] “Section 5. **Report by board.** Each board created by this Act shall upon the first day of the next regular session of the legislature present to each house thereof, with a copy to the board of supervisors of the particular county, a report of its activities through December 31, 1940, and listing the name of each person granted a pension under the provisions of this Act, the length of time served in the county employment, the monthly rate of the county compensation received upon service termination and the average monthly county compensation received during the last ten years, or such lesser time as may have been served in the county employment, by the pensioned employee or pensioned widow's spouse, the monthly pension amount computed under the provisions of this Act, the monthly pension amount granted, and the date of such grant.

Together with such report, each board shall present similar details for each person within the particular county receiving a pension granted by any enactment of law prior to the close of the twentieth legislature and paid by the particular county.” [L. 1937, c. 237, s. 5; am. L. 1939, c. 112, pt. of s. 1.]

(e) By amending section 6 thereof to read as follows:

[Sec. 7919E.] “Section 6. **Examination by physician.** In connection with the consideration of any application for disability pension or review of such pension granted, under the provisions of this Act, any county board may refer any applicant or person receiving such pension to any physician receiving a regular monthly salary or fee from the territory or any of its political subdivisions for physical examination and report to the board thereon as to the existence or continuance of disability. Any such physician to which such an application is referred shall make the necessary physical examination and

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report his findings and recommendations to the board, but shall neither charge nor receive any fee for the particular examination and report."

Section 2. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **H.B. 124, Act 112.**

[D-178] An Act Relating to Pensions, Amending Act 212 of the Session Laws of Hawaii 1927, and Act 193, Series D-166, of the Session Laws of Hawaii 1935, and Providing for Certain Additional Pensions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 212 of the Session Laws of Hawaii 1927 is hereby amended by amending that certain item thereof relating to a pension for Mrs. Emma Kauhane to read as follows:

"Mrs. Emma Kauhane \$100.00".

Section 2. The pensions heretofore granted to the following named persons pursuant to section 3 of Act 193, Series D-166, of the Session Laws of Hawaii 1935, are hereby fixed, notwithstanding any provisions of said Act to the contrary, at the following respective amounts:

Mrs. Hattie Keonaona Hapai.....\$85.00 per month;

Mrs. Elizabeth K. Pua.....\$85.00 per month.

Section 3. The board of supervisors of the county of Maui is hereby authorized and directed to pay a pension to Mrs. Minerva Kalama during the remainder of her natural life, subject to the general provisions and limitations of sections 7915 to 7917, inclusive, of the Revised Laws of Hawaii 1935, in the amount of \$100.00 per month.

Section 4. The board of supervisors of the City and County of Honolulu is hereby authorized and directed to pay a pension to Mrs. George Fred Wright during the remainder of her natural life, subject to the general provisions and limitations of sections 7915 to 7917, inclusive, of said Revised Laws, in the amount of \$175.00 per month, commencing as of the date of the death of her husband, George Fred Wright.

Section 5. The board of water supply, City and County of Honolulu, is hereby authorized and directed to pay a pension to each of the following named persons during the remainder of her natural life, subject to the general provisions and limitations of sections 7915 to 7917, inclusive, of said Revised Laws, in the following respective amounts:

Mrs. Manuel Cabral.....\$25.00

Mrs. Sam Liftee, Jr.....\$25.00

Section 6. No pension provided for by this Act shall be subject to review or alteration by any board or any other authority than the legislature, any provision of any other law (including any Act passed at the present session) to the contrary notwithstanding.

Section 7. This Act shall take effect on July 1, 1939.

(Approved May 16, 1939.) **H.B. 81, Act 245.**

[D-179] An Act Providing Certain Life Pensions.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the territory is authorized and directed to pay each month to the following individuals, and continuing throughout their natural lives (subject to the provisions of sections 7915 to 7917 of the Revised Laws of Hawaii 1935), upon warrants which the territorial auditor is authorized and directed to issue, pensions in the sums hereinafter set forth opposite their respective names, and moneys to cover said pensions are hereby appropriated from the territorial general fund.

Henry Lincoln Holstein	\$ 75.00
Louise B. Watson	60.00
John P. Aguiar	25.00
(This item is not approved. J.B.P.)	
Charles Ruthowski	40.00
Paul Kaelemakule Sr.	30.00
(This item is not approved. J.B.P.)	
Hannibal S. Canario	50.00
(This item is not approved. J.B.P.)	
Eben P. Low	60.00
Joseph Antonio Dias	35.00
(This item is not approved. J.B.P.)	
Eddie Kealoha	30.00
Theodore F. Lansing	60.00
Mrs. Herbert Ahuna	50.00
Mrs. Hattie Hall	35.00
(This item is not approved. J.B.P.)	
Mrs. Emma Kiilehua	30.00
(This item is not approved. J.B.P.)	

Section 2. This Act shall take effect on July 1, 1939.

(Approved this 15th day of May A.D., 1939, except as to items followed by the words: "This item is not approved.") **H.B. 102, ACT 235.**

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[SERIES D-180.—ACT 172.

[SERIES D-181.—ACT 3.

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[SERIES D-182.—ACT 238.]

[D-180] An Act Providing Pensions for the Veterans of the Hawaii Guard 1893-1898 and Amending Act 161 of the Session Laws of Hawaii 1927 as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 161 of the Session Laws of Hawaii 1927, as amended, is hereby further amended by amending section 1 thereof by substituting at the end of said section, for the words "the sum of twenty-five dollars", the words "the sum of forty dollars".

Section 2. An additional sum of ten thousand dollars (\$10,000.00) is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, to meet the expenditures required by Act 161 of the Session Laws of Hawaii 1927, as amended, and as further amended by this Act.

Section 3. This Act shall take effect from and after the 1st day of July, 1939.

(Approved May 14, 1939.) **H.B. 247, ACT 172.**

[D-181] An Act to Repeal Act 162 of the Session Laws of Hawaii 1937, Providing a Pension for the Honorable James J. Banks.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 162 (Series D-161) of the Session Laws of Hawaii 1937 is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved February 28, 1939.) **S.B. 4, ACT 3.**

CHAPTER 259A. SOCIAL SECURITY DEPARTMENT.

[D-182] An Act to Add to Title XXVI, of the Revised Laws of Hawaii 1935, a New Chapter Creating in the Territorial Government a Department of Social Security, Prescribing Its Powers, Duties and Functions, Amending Act 242 of the Session Laws of Hawaii 1937, and Act 209 of the Session Laws of Hawaii 1933, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to Title XXVI, of the Revised Laws of Hawaii 1935, a new chapter, to be numbered chapter 259A, reading as follows:

"CHAPTER 259A. DEPARTMENT OF SOCIAL SECURITY."

Sec. 1. [Creation of department; director.] There is hereby cre-

ated in the territorial government a department of social security, to be under the direction and control of a director of social security, hereinafter referred to as the 'director', who shall be appointed in the manner prescribed by the first paragraph of section 80 of the Organic Act, shall hold office for a term of four years and until his successor is appointed and qualified, unless sooner removed, and who may be removed by the governor for cause. He shall receive such salary as is fixed by law, and shall furnish bond in such amount as may be required by the governor.

Sec. 2. [Duties; employees.] Said department is charged with the administration of the provisions of Chapter 259 A1 (Act 242, Session Laws of Hawaii 1937), as renumbered and amended in this Act.

Subject to any civil service act relating to territorial employees that may be enacted, the director may appoint such assistants, together with such clerical, stenographic and other help as may be necessary for the department.

Sec. 3. [County agents.] The director shall similarly appoint one agent for and to maintain his office at the county seat of each of the counties of Honolulu, Hawaii, Maui and Kauai. Said agents shall be directly responsible to the director for the proper performance within their respective counties of all duties and functions delegated to them by the director; and all of their actions and decisions shall be subject to appeal and hearing before the director.

In the event that the claim of any applicant under this Act shall in the first instance be denied by the director himself, such applicant shall be notified that his application has been denied and the reasons therefor, and shall be notified of the time and place within the county in which he has made such application, when he may be heard, at which time and place he shall be permitted fully to state his reasons or to present evidence why his application should be reconsidered and granted.

Sec. 4. [Salaries; bonds.] The salaries of all of the foregoing appointees and employees shall be fixed by law.

The director sha'l require such of the aforesaid appointees and employees as he deems necessary to furnish bond in such amounts as he may prescribe.

Sec. 5. [Advisory board.] There is hereby created a social security advisory board, hereinafter referred to as the 'advisory board', to consist of five members to be appointed and be removable by the governor in the manner prescribed by section 80 of the Organic Act and to serve without pay. The members shall hold office for one year or until their successors are appointed and qualified. Any vacancy shall be filled by appointment for the unexpired term involved.

The advisory board shall meet upon call of the director, who shall be the chairman, and advise with him on any matters by him referred to it.

Sec. 6. [Hearings; powers and duties with respect to.] In all hearings or investigations conducted by the director, or any of his duly authorized subordinates, with respect to any matters cognizable by any of them, each of said officers shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be

examined witnesses, as are possessed by a circuit judge at chambers, and may take depositions and certify to official acts. The circuit court of any circuit upon application by any of them shall have power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit courts. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of administration for the bureau concerned.

No person shall be excused from attending or testifying, or producing books, papers, correspondence, memoranda and other records, before the director or his duly authorized subordinate, or in obedience to the subpoena of any of them, in any cause or proceeding before them, on the grounds that the testimony and evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 7. Reports. The director shall file with the governor a written report or reports at such times, at least once in each year, and in such form, as shall be requested by the governor, covering the condition and activities of his department and of each division thereof."

Section 2. Act 242, Series D-164 of the Session Laws of Hawaii 1937 (which is renumbered in said Session Laws as "Chapter 259 A" of said Revised Laws), is hereby renumbered as chapter 259 A1 of said Revised Laws, with the following section numbers, and is hereby amended to read as follows:

"CHAPTER 259 A1. PART I

Definitions, Duties, General Provisions.

Sec. 1. Definitions. Unless the context clearly requires a different meaning when used in this chapter:

'Department' means the department of social security.

'Director' means the director of said department.

'Public assistance' shall mean money payments to, or for the benefit of, aged persons, blind persons, dependent children, and other persons whom the director has determined to be unable to procure or provide sufficient support for themselves and those dependent upon them.

'General assistance' shall mean that portion of public assistance including money payments to or for the benefit of persons other than the aged, blind, and dependent children whom the director has determined to be unable to procure or provide sufficient support for themselves and those dependent upon them.

'Applicant' shall mean the person for whose use and benefit an application for public assistance is made.

'Recipient' shall mean the person for whose use and benefit a grant of public assistance is made.

'Dependent child' shall mean any minor under eighteen years of age who, for any reason, is destitute or homeless or abandoned or dependent upon the public for support or who has no proper parental care or guardianship, or whose home, by reason of cruelty, neglect or depravity on the part of his parents, guardian or other person in whose care he may be, is an unfit place for such child, and shall also mean any minor under twelve years of age who might if over twelve years of age be adjudged a delinquent child.

'County' shall be deemed to include the City and County of Honolulu.

Sec. 2. Duties of the director. The director shall be responsible for the conduct or supervision of all activities provided for by this chapter and for the formulation and adoption of all policies, rules and regulations for the administration of this chapter.

Sec. 3 Appropriations: Expenditure: Donations. Moneys provided by the Legislature for expenditure by the director shall be expended upon vouchers approved by the director.

All contributions or donations to the director shall be paid into the territorial treasury to be expended according to law and for purposes in accordance with the terms and conditions of such contributions or donations, and all such moneys are hereby appropriated for such purposes, provided, however, that no such contributions or donations shall be accepted by the director except for expenditures within the purposes of this Act; and provided, further, that this paragraph shall not apply to receipts from the federal government or grants in aid, reimbursements, assistance or refunds, donations or goods or services which the director is authorized to accept for sight conservation and for assistance to the blind, pursuant to section 38 of this chapter.

Sec. 4. Activities of director. Except as otherwise provided by law, the director shall:

(1) Supervise the administration of all public assistance, including general assistance, old age assistance, aid to dependent children, and aid to the blind.

(2) Place, or cooperate in the placing of, dependent children in suitable institutions or private homes, as provided by this chapter.

(3) Administer child welfare activities as provided for in part II of this chapter.

(4) Administer work with and for the blind, including the registry of blind, medical care, vocational guidance, training, placement in employment and other services, including the conduct of activities for sight conservation and prevention of blindness.

(5) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare and public assistance, including the making of such reports, the adoption of such methods of administration and the making of such rules and regulations as may be found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of

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the plans for such public welfare and assistance, or as may be necessary or desirable for the receipt of financial assistance from the federal government.

(6) Carry on research and compile statistics relative to public and private welfare activities throughout the territory, including those dealing with dependence, defectiveness, delinquency and related problems; and develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems.

(7) Make such rules governing the procedure in hearings, investigation, recording, registration, determination of allowances, and accounting, and conduct such other activities as may be necessary or proper to carry out the provisions of this chapter, which rules, when approved by the governor, shall have the force and effect of law.

(8) Supervise or administer any other activities authorized or required by this Act, including the activities authorized by sections 8 and 9 of this Act.

(9) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 9 of this Act as it shall deem advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of such funds, which rules, when approved by the governor, shall have the force and effect of law.

Sec. 5. Commitments directed to the director. If in any proceedings before a juvenile court, as provided for in chapter 133, a child is adjudged and determined to be dependent within the meaning of this chapter and the court finds that such child should be removed from its own home, such child shall be committed to the director to provide for and supervise the care and maintenance of such dependent child; provided, however, that any dependent child under the age of twelve years who might if over twelve years of age be adjudged a delinquent child may, in the discretion of the court, be retained under its supervision. The director shall have the authority to place a child so committed to him in a proper institution or private home and shall cooperate with public or private authorities, in the placing of such child in a proper institution or suitable private home.

Sec. 6. Authority over and investigation of organizations or institutions caring for dependent children. No organization or institution shall be allowed the care and custody of dependent children unless such organization or institution meets with the standards of condition, management and competence to care for and train children set by the director.

Upon approval of such organization or institution, the director shall issue a certificate of approval which shall continue in force for one year unless sooner revoked for cause. Such certificate shall be renewed by the director after annual investigation if such investigation shall disclose that such organization or institution continues to meet with the standards set by him. The certificate of approval shall be a permit to operate the organization or institution, and no person or organization shall operate or maintain such organization or institution without such certificate.

Any organization or institution to whose care or custody dependent children are entrusted shall be subject to investigation at any time in such manner as directed by the director.

Sec. 7. Applications, manner, form. Applications for public assistance under this chapter shall be made to the director by the applicant, or by someone acting in his behalf, in the manner, place and form prescribed by the director.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a subsistence compatible with decency and health or who has made an assignment or transfer of property or income for the purpose of qualifying himself for public assistance, or who has a spouse, child or parent who is financially able and legally responsible to support him, or, with the exception of dependent children placed by the director in a charitable institution for care and maintenance, who is an inmate of any public institution of a charitable, custodial, correctional or curative character, but an inmate of such an institution may apply for assistance to begin after his discharge from such institution.

Sec. 8. Prevention and treatment of conditions giving rise to need. The director is hereby authorized to carry on or administer or cooperate with other public or private agencies in work or activities for the purpose of preventing or treating conditions giving rise to the need for public assistance in any case in which such work or activities may prevent, shorten, or eliminate the need of public assistance. Such work or activities, if any, shall be taken into consideration in deciding upon or deferring action upon any application for public assistance.

Sec. 9. Assignment of persons in need of public assistance to work on public projects. The director may assign persons in need of public assistance to work on territorial, county or other public projects whether or not such projects are conducted in cooperation with any federal agency for the relief of unemployment.

The amount of assistance to be paid to such persons shall be fixed by the director upon consideration of the work performed, and shall not exceed the amount or value of the grant of public assistance which would have been made had no such assignment to a work project been made. The amount of assistance paid or payable upon the performance of such work, if any, shall be taken into consideration in deciding upon or deferring action upon any application for further public assistance, payable without the performance of such work, or upon any modification or cancellation of a grant of assistance payable without the performance of such work (such modification or cancellation being authorized hereby). The qualifications of the persons so assigned to such projects shall be those required for the receipt of public assistance, and physical and mental ability to do the work assigned, and no citizenship, minimum wage, or age restrictions shall apply. Provided, however, that the provisions of this paragraph shall be subject to any federal policies, rules or regulations which may be applicable in order to obtain federal aid or the cooperation of the federal agency concerned, if any.

Nothing in this section shall be deemed an authorization to expend any moneys other than for assistance to persons so assigned to such projects, or as provided by other sections of this chapter. Persons assigned to work on such projects shall be deemed recipients of public assistance within the meaning of this chapter.

Sec. 10. Application of Chapter 245, Revised Laws of Hawaii 1935, to persons in need of public assistance assigned to work projects. Chapter 245 of the Revised Laws of Hawaii 1935 shall apply to recipients of public assistance assigned to work on public projects pursuant to section 9 of this chapter, who shall be deemed employees for the purposes of said Chapter 245, Revised Laws of Hawaii 1935, and an award may be made against the Territory or a county or other public body, as the case may be, according to the project upon which the person injured was engaged at the time of the injury.

Sec. 11 Protection of records. It shall be the duty of the director and his agents to keep such case records as may be necessary or proper in accordance with the provisions of this chapter. All applications and records concerning any applicant shall be confidential and shall be open to inspection only by persons duly authorized by the territory or the United States in connection with their official duties, or to employees, acting within the scope and course of their employment, of such recognized social welfare organizations as may be approved by the director, hereby conferring upon the director and his agents the authority to determine whether or not such inspection is in connection with such official duties or within the scope and course of such employment. Any information secured pursuant to this section by such officials or employees may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of public records. The use of the records, papers, files and other communications of the director or his agents by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished.

Any person, including any person acquiring information through inspection permitted him or another under this section, who, knowing such information to have been acquired from the confidential records or files of the director, divulges the same except as authorized in this section or by other provisions of law, or who aids or abets in the inspection of such applications or records by any person unauthorized to inspect the same under the provisions of this chapter or other provisions of law, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000).

Sec. 12 Relief limited. During the continuance of public assistance under the provisions of this chapter, no recipient shall receive any other public assistance from the territory or any county, except for necessary medical, dental, and surgical care, or in such amounts as are necessary to supplement the public assistance granted pursuant to this chapter, where the amounts of such other public assistance from the territory or any county have been taken into consideration in deciding upon any application for public assistance.

Sec. 13. Assistance payments inalienable. All assistance payments shall be inalienable by any assignment, sale, attachment, garnishment, execution or otherwise.

Sec. 14 Assistance improperly obtained, inquiry, suspension. If at any time the director has reason to believe that any public assistance has been improperly obtained, he may cause special inquiry to be made by the county attorney and may suspend payment of such assistance pending the inquiry. If, on inquiry, and after the recipient

has had reasonable notice and an opportunity for a fair hearing, it appears that the assistance was improperly obtained, it shall be cancelled and the person whose assistance has been cancelled shall be disqualified from making new application for such period as may be determined by the director. If it appears that the assistance was properly obtained, the suspended payment shall be payable in due course.

Sec. 15. Cancellation or revision. If, at any time during the currency or continuance of public assistance, the recipient, or any person legally liable for the support of the recipient becomes possessed of any property or income in addition to that available at the time the grant was made the director may, for such cause or for any other like cause, either cancel the assistance or change the amount thereof.

Sec. 16 Assistance payments subject to change or repeal. All public assistance granted under the provisions of this chapter shall be deemed to be granted and held subject to the provisions of any amending or repealing act that may hereafter be passed and no recipient under this chapter shall have any claim for compensation or otherwise by reason of his assistance being affected in any way by any such amending or repealing act.

Sec. 17. Recovery from estate. If a recipient under this chapter dies leaving an estate, the director may file a claim against such estate for the amount of public assistance granted under the provisions of this chapter, and such claim shall be allowed.

Upon the recovery of any claim as provided in this section, the amount so recovered shall be paid into the treasury of the Territory, and if the amount for which claim was made was paid to the recipient for old age assistance, one-half thereof shall be paid by the treasurer of the Territory into the treasury of the United States, and the treasurer shall thereupon report such payment to the director.

Sec. 18. Frauds, etc. Any person who by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device, obtains or attempts to obtain, or aids or abets any other person to obtain public assistance to which he is not justly entitled or a larger amount of assistance than that to which he is justly entitled or payment of any forfeited installment grant; or who aids and abets in the buying or in any way disposing of the property of a public assistance recipient without the consent of the director, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned for not more than one year or both.

Sec. 19. Incompetency of recipient. If the recipient is found incapable of taking care of his money or himself, the director may direct his assistance to be paid to a legal guardian or any other reputable person for his benefit or may suspend assistance for such period as he deems fit.

Sec. 20. Legal representative. The attorney general and the county attorneys shall act as legal representatives of the department when so requested.

PART II**Public assistance to the Aged, the Blind, Dependent Children and Child Welfare Services.**

Sec. 21. **Public assistance.** The department shall administer in the several counties public assistance to the aged, the blind, and dependent children, and shall administer within the Territory child welfare services referred to in section 27 of this chapter.

Sec. 22. **Aged persons.** A person shall be eligible for old age assistance who:

- (1) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health;
- (2) Resides in the Territory and has so resided for not less than five years during the nine years immediately preceding the date of the application; and
- (3) Is sixty-five years of age or more.

Sec. 23. **Blind persons.** A person shall be eligible for public assistance who:

- (1) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health;
- (2) Has resided in the Territory for at least five years during the nine years immediately preceding application for assistance; and
- (3) Has vision in the better eye, with correcting glasses, of less than twenty two-hundredths (20/200) or a disqualifying field defect sufficient to incapacitate him for self-support.

Sec. 24. **Dependent children.** A dependent child shall be eligible for public assistance who:

- (1) Is in need, and has not sufficient income or other resources to provide care and support compatible with decency and health;
- (2) Has not attained the age of eighteen years;
- (3) Is deprived of parental support or suitable care by reason of the death, continued absence from home, physical or mental incapacity, or cruelty, neglect or depravity on the part of a parent;
- (4) Is living in a suitable home with his father, mother, grandfather, grandmother, brother, sister, step-father, step-mother, uncle or aunt in a place of residence maintained by such relative as his own home; or is living in a suitable family home or institution conforming to the standards fixed by the director; and
- (5) Has resided in the Territory for one year immediately preceding application for assistance, or was born, within one year immediately preceding application, of a mother who resided within the Territory for one year immediately preceding such birth.

Sec. 25. **Determination of amount of assistance.** The amount of public assistance granted, including funds received from the federal government, shall not exceed in the case of any applicant an amount in excess of that determined upon investigation or by the decision of

the director to be compatible with maintaining decency and health, and in the case of an aged or blind person shall not exceed thirty dollars per month. In granting public assistance to an aged or blind person the director may take into consideration part or all of the needs of such person's dependents, provided they are eligible for public assistance, but such aged or blind person nevertheless shall not be the recipient of a grant in excess of thirty dollars (\$30.00) per month; in the event that such grant has taken into consideration only part of the needs of such dependents such grant shall be without prejudice to a separate grant of assistance to such dependents or any of them, as may be proper upon consideration of their remaining needs and in compliance with the provisions of this chapter. Where a dependent child is the applicant and the recipient of a grant, even though his assistance is paid to such aged or blind person for his benefit, the grant to such dependent child shall not be included in applying the limitation of thirty dollars (\$30.00) per month herein-before provided.

Sec. 26. Home conditions, right of removal. A determination by the director that the home where a dependent child lives is no longer a suitable or proper place for the rearing of said child shall constitute good reason for the revocation of a grant of public assistance and such other provisions shall be made for the care of the child as may be deemed necessary.

Sec. 27. Federal assistance for child welfare services. For the purpose of qualifying for federal assistance in the allotment of funds for child welfare services in the Territory as contemplated in Part 3 of Title V of the Social Security Act, the director shall cooperate with the Children's Bureau of the United States Department of Labor, and shall make such rules and regulations and establish such methods of administration and shall make such reports as may be required by virtue of any law or regulation of the United States or any properly constituted authority thereunder under which the Territory of Hawaii may become entitled to financial assistance from the United States government for child welfare services. The treasurer of the Territory shall be the custodian of funds received for such services from the federal government.

Sec. 28. Examination of blind. The director shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist or a qualified physician designated by him to make such examinations. The examining person shall certify to the director the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be on forms prescribed by the director.

Sec. 29. Appropriations; expenditure. Moneys made available for expenditure for assistance shall be expended upon vouchers approved by the director or a duly authorized subordinate.

Sec. 30. Aged and blind assistance not to be paid to same person. Public assistance shall not be granted to a blind person with respect to any period in which he is receiving public assistance as an aged person.

Sec. 31. Report to auditor. On or before February 15 of each year, the director shall make a report of the preceding year to the territorial auditor stating the total number of recipients, the amounts

disbursed for the several categories of assistance, the total number of applications, the number of persons granted assistance, the number denied, the number having assistance cancelled during the year and giving such other information as the territorial auditor may deem advisable.

Sec. 32. Territorial reimbursement. The director shall comply with all requirements of the Social Security Board pertaining to methods and standards of administration and shall make such rules and regulations and follow such procedure as may be required for the receipt of grants-in-aid for public assistance and such administrative costs as are provided in the Social Security Act from the federal government, for the purpose of assuring full federal approval of the activities of the department.

PART III

Conservation of Sight and Work with the Blind.

Sec. 33. Registration of blind. It shall be the duty of the director to cause to be maintained a complete register of the blind in the Territory which shall describe the condition, causes of blindness, capacity for education and industrial training and such other facts as may seem to him to be of value regarding each blind person, together with recommendations for rehabilitation and relief.

He shall register cases of persons whose eyesight is seriously defective or who are likely to become visually handicapped or blind, and take such measures in cooperation with other authorities, as he may deem advisable for the prevention of blindness or conservation of eyesight, and in appropriate cases, provide for or secure the vocational guidance of persons having seriously defective sight.

Sec. 34. Cause and prevention of blindness, examinations. It shall be the duty of the director to make investigation of the causes of blindness, to learn what proportion of the cases are preventable and to inaugurate and cooperate in any such preventive measures as may seem advisable for the Territory. He may arrange for the examination of the eyes of individual blind or partially-sighted persons and may provide or secure medical and surgical treatment of such persons whenever, in his judgment, the sight of such persons may be benefited thereby.

Sec. 35. Agencies for information and industrial aid. The director shall maintain or cause to be maintained one or more agencies for employment information and industrial aid, the object of which shall be to aid the blind and those with seriously defective eyesight in finding employment and shall provide instruction for such persons in trades and occupations which may be followed in their homes, and shall assist such persons in whatever manner he may deem advisable in disposing of the products of their home industry.

Sec. 36. Workshops. The director may also, whenever he deems proper, aid individual blind persons or groups of blind persons to become self-supporting by furnishing materials, machinery and other facilities to them, and assist them in the sale and distribution of their products, and in other like ways help them to become self-supporting.

Sec. 37. Visiting the blind; home teaching. The director may take whatever measures he deems necessary to ameliorate the condition

of the blind by promoting visits among them, providing instruction in their homes, and circulating reading matter among them for their education and recreation.

Sec. 38. Sight conservation and prevention of blindness. The director shall take such measures in cooperation with the department of public instruction and other public and private authorities as he may deem advisable for the education of children in the conservation of eyesight and the prevention of blindness, and may recommend for sight-saving classes, or for the territorial school for the blind, children certified by any reputable oculist as fit subjects for instruction therein.

He shall conduct or supervise such vision-testing activities in public and private schools as he deems advisable and as meets the approval of the school authorities to determine those children who have defective vision and shall make recommendations for the conservation or correction of their vision, and shall cooperate with school authorities to secure proper lighting and in such other measures as he may deem advisable to remedy conditions which may be conducive to or cause weakening of eyesight.

He shall cause to be conducted classes and lectures in sight conservation and prevention of blindness for teachers and public health nurses and others engaged in like work, and cooperate with public and private organizations and societies in an effort to educate the public in the importance of sight conservation, and may sponsor illustrated exhibits and lectures to officials and employees of private industrial organizations or public bodies with a view to emphasizing the importance of proper care of the eyes and the adoption of safety measures to reduce accidents resulting in eye injuries, and may take such action as may be necessary or proper to secure scientific illumination in public and private buildings.

He may also accept and expend or distribute donations, eye glasses and other services for sight conservation and for assistance to the blind.

PART IV.

General Assistance.

Sec. 39. General assistance. The director shall administer public assistance to those needy persons not otherwise provided for under this chapter, who for any reason satisfactory to the director are unable to procure or provide sufficient support for themselves or those dependent upon them. The department shall cooperate with the various charitable organizations to avoid duplications.

Sec. 40. Applications. Applications for general assistance shall be made by the applicant or by someone acting in his behalf in the manner, place and form prescribed by the director.

Sec. 41. Amounts of grants. Upon a receipt of an application for general assistance the director shall investigate and prepare a complete record of the circumstances of the applicant and his dependents, if any. If assistance is granted, the director shall fix the amount or value of such assistance in money, food, shelter, or other necessities. The amount or value of such assistance shall not exceed such minimum as in the judgment of the director will provide a minimum subsistence for the individual and dependents concerned."

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Section 3. On the effective date of this Act all officers and employees then in the employ of any board or commission, the functions of which are by this Act transferred to the department of social security, shall continue in their respective offices or employments for a period of not more than three months after such effective date. The employment of all such officers and employees who are not re-appointed by the director within said period shall cease.

All appeals from any county public welfare commission to the board of public welfare of the Territory of Hawaii, which are pending and undisposed of on the effective date of this Act, shall be transferred to and heard and disposed of by the director created by this Act. The decisions on any of said appeals shall be given effect in the same manner as corresponding appeals commenced after said effective date.

This Act, except as otherwise expressly or by necessary implication required or provided herein, shall not affect the validity or effectiveness of any award or decision made, rules promulgated, or act done, or the enforceability of any rights, liabilities, penalties or forfeitures, accruing, acquired or incurred, prior to said effective date under any law amended by this Act, but the same shall be given effect and enforced in the same manner and to the same extent, as nearly as may be, except for the substitution, wherever appropriate, of the officers or agencies created by this Act in lieu of those provided by said laws prior to their amendment by this Act, as if this Act had not been enacted, subject to such changes or other or further action by the director of social security as may legally be made or taken under this Act or said laws as amended by this Act.

Section 4. **Transfer of activities.** Upon the approval of this Act by the Social Security Board of the United States, or, if such approval be given prior to July 1, 1939, then as of the commencement of business on July 1, 1939, all property, powers, duties and functions, including the authority and power to complete any unfinished business undertaken by it, of the board of public welfare are transferred to and vested in the director, and the word "commission" as used in Act 209 of the Session Laws of Hawaii 1933, as the same is set forth in chapter IV of the appendix to the Revised Laws of Hawaii 1935, as amended, shall mean and include the director.

Section 5. Section 24 of said Act 209, as amended, is hereby further amended to read as follows:

"Section 24. **Period for which tax is to apply.** This Act shall terminate and cease to be effective on and after July 1, 1941; provided that it shall remain in effect thereafter for the collection and enforcement of taxes, penalties and other rights and liabilities which shall have accrued or attached prior to said date, and for the expenditure of said taxes." [L. 1933, c. 209, s. 24; R. L. 1935, appendix, ch. IV, s. 24; am. L. 1935, c. 135, s. 1; am. L. 1939, c. 238, s. 5.]

Section 6. Section 3 of said Act 209, as amended, is hereby further amended to read as follows:

"(a) There shall be assessed, levied, collected and paid for each month, a tax of six-tenths of one per centum upon the amount of all compensation, not exempted under subsection (b) hereof, received by every person during all or any part of such month. Provided that be-

fore the 15th day of June of each year the tax commissioner shall prepare an estimate of the probable receipts from said tax for the taxable year from the 1st day of July next following to the succeeding June 30th, and if the estimated probable receipts during such taxable year shall be in excess of \$900,000.00, the tax commissioner shall, on or before said July 1st, with the written approval of the governor, decrease the rate of six-tenths of one per centum to the lowest lesser rate in even tenths of one per centum which it is estimated will produce the required amount of \$900,000.00 and such reduced rate shall constitute the rate for such succeeding taxable year.

(b) Any such compensation paid (1) out of funds appropriated by, or furnished pursuant to the provisions of, any statute of the Territory or of the United States for the relief of unemployment or (2) to employees of the Territory employed in the County of Kalawao, shall be exempt from the tax imposed by this chapter." [L. 1933, c. 209, s. 3; R. L. 1935, appendix, ch. IV. s. 3; am. L. 1939, c. 238, s. 6.]

Section 7. All moneys collected during any calendar year after July 1, 1937, under the provisions of said Act 209, as amended, shall be paid as collected into a special fund to be known as the "Assistance Fund" and expended as hereinafter provided:

Such portion of said assistance fund as may be necessary to be expended in order to secure the maximum payments or grants-in-aid from the federal government for dependent children, old age assistance, and aid to the blind shall be first expendable and thereafter any portion remaining shall be expendable for other public and general assistance (as defined in Act 242, Session Laws of Hawaii 1937, as the same may be amended), and for assistance to persons assigned to work on public projects pursuant to said Act, but not in excess of \$900,000.00 per calendar year inclusive of administration costs of all activities provided for by said Act, which administration costs shall not exceed twelve and one-half per centum (12½%) of the total funds expended for relief from all sources, without the necessity of securing the approval of the governor; any surplus in said assistance fund as may be determined by the governor to exist from time to time, over and above such portion, shall be allocated by the governor for expenditure for the following purposes: (1) for general assistance under said Act, for public assistance to dependent children, aged persons and the blind in excess of the amounts for which payments or grants-in-aid may be received from the federal government, and for relief of persons not covered by the classifications or definitions of the Social Security Act; (2) for aid to crippled children, in such manner as to comply with the Social Security Act, amounts not in excess of \$25,000.00 annually; and (3) for unemployment relief measures in cooperation with any federal agency for the relief of unemployment.

Unless and until Section 2 of this Act becomes effective, expenditures under this section shall be made by the board of public welfare, created by said Act 242 of the Session Laws of Hawaii 1937. When and if Section 2 of this Act becomes effective, expenditures under this section shall be made by the director of social security.

Section 8. All grants-in-aid, reimbursements, assistance or refunds received from the federal government for the purposes of this Act are hereby reappropriated into the assistance fund provided in section 7 of this Act and shall be expended by the director without the necessity of approval of allocation by the governor for the purposes of this Act, and in conformity with the requirements of the Social Security Act.

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Section 9. Any law or portion of law inconsistent or in conflict with this Act is hereby amended or repealed to the extent of such inconsistency or conflict.

Section 10. Separability of provisions. If any provision of this Act or the application thereof to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 11. If any portion of this Act, or of any other law as amended by this Act, or its application to any person or circumstances, is held unconstitutional or invalid, the validity of the remainder of this Act or of said other law, or the application of said portion to other persons or circumstances, shall not be affected.

Section 12. All territorial laws or parts of laws inconsistent with the provisions of this Act, or of any other law as amended by this Act, are hereby amended to conform to this Act and to said other law as amended by this Act.

Section 13. All sections of this Act, except Sections 5, 6, 7, 8, 10, 11 and 13, shall take effect at such time after the date of its approval by the governor, as the provisions of this Act may be approved by the Social Security Board of the United States, or if such approval by the Social Security Board of the United States be given prior to July 1, 1939, then upon July 1, 1939, provided that in the latter event the director of Social Security may be appointed prior to July 1, 1939, for a term to expire four years from July 1, 1939, and may appoint his subordinates prior to, but to take effect on, July 1, 1939, and all officers and employees employed under any of the laws hereby amended shall cooperate with the director in preparing for the transfers of power, duties, functions and property required by this Act, for the purpose of avoiding unnecessary confusion or the stoppage of public business. Sections 5, 6, 7, 8, 10, 11 and 13 of this Act shall take effect upon July 1, 1939.

(Approved May 16, 1939.) H. B. 48, Act 238.

CHAPTER 259B. LABOR AND INDUSTRIAL RELATIONS DEPARTMENT.

[D-183] An Act Relating to Labor and Industrial Relations; Adding to Title XXVI of the Revised Laws of Hawaii 1935 A New Chapter Creating in the Territorial Government A Department of Labor and Industrial Relations, Comprising the Bureaus of Unemployment Compensation, Workmen's Compensation, Research and Statistics, and Labor Law Enforcement, and Prescribing Its Powers, Duties and Functions; and Amending Chapter 245 of Said Revised Laws and Other Laws Inconsistent Herewith In Order to Conform Thereto, and Making An Appropriation for Said Department.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to Title XXVI of the Revised Laws of Hawaii 1935 a new chapter, to be numbered chapter 259B, reading as follows:

“CHAPTER 259B. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

“Sec. 1. Definitions. When used in this chapter:

‘Employer’ includes every person having control or custody of any employment, place of employment, or of any employee, but shall not include the United States or the Territory of Hawaii or any political subdivision thereof.

‘Department’ means the department of labor and industrial relations.

‘Director’ means the director of labor and industrial relations.

‘Commission’ means the commission of labor and industrial relations.

‘Appeal board’ means the labor and industrial relations appeal board.

‘Commercial Employment Agency’ means any empioyment agency which charges for services rendered and which is operated for profit.

‘Agriculture’ includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees or poultry and any practices (including any forestry or lumbering operations) performed on a farm, plantation, ranch, orchard, vineyard or other farm premises as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to carriers for transportation to market; all of the foregoing being subject to the following more specific definitions with respect to ‘sugar cane plantations’, ‘pineapple plantations’ and ‘other agriculture’:

(a) Farming operations on ‘sugar cane plantations’ include all operations performed on such plantations as are incident to or in conjunction with the planting, cultivation, irrigation and harvesting of sugar cane; the hauling, fluming or transportation, by whatever

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means, of sugar cane to the point where such sugar cane is delivered to the mill or mill-yard for first processing;

(b) Farming operations on 'pineapple plantations' include all operations performed on such plantations as are incident to or in conjunction with planting, cultivation, irrigation and harvesting of pineapples, and the hauling, transportation or handling of produce of the plantation from its fields or principal highway loading stations to canneries or up until the time such produce is delivered to ocean carrier at shipping ports;

(c) Farming operations performed in connection with 'other agriculture' include all operations of whatever nature performed on the farm or ranch premises incident to or in conjunction with the production of agricultural or horticultural commodities or the raising of livestock, bees or poultry.

"Sec. 2. Commission of labor and industrial relations. There is hereby created in the territorial government a department of labor and industrial relations to be under the direction and control of a commission of labor and industrial relations consisting of five members, not all of whom shall belong to the same political party. The members of the commission of labor and industrial relations shall be appointed and be removable in the manner prescribed by the first paragraph in section 80 of the Organic Act and shall hold office for five years or until their successors are appointed and qualified; provided, that the first members shall be appointed for terms such that one term will expire on January 1 of each consecutive year commencing with and following January 1, 1940. The commission shall annually elect from its membership a chairman and a vice-chairman. Any vacancy shall be filled by appointment for the unexpired term involved.

The commissioners shall serve without pay but each shall be paid his necessary traveling expenses incurred in the discharge of his duties as commissioner. The commission shall meet as often as necessary and at least once in each month at such place as shall be made available by the governor and at such times as may be designated in advance by the commission and at such other times for which meetings may be specifically called by the chairman. All hearings before the commission shall be open to the public.

Any three of the members shall constitute a quorum; provided, however, that no rule or regulation of the commission shall be adopted, repealed or amended without the concurring vote of three members of the commission.

"Sec. 3. Director of labor and industrial relations; attorney. The commission shall appoint a director of labor and industrial relations and an attorney, neither of whom shall be subject to any civil service act relating to territorial employees that may be enacted. The director, subject to the direction and control of the commission, shall be the chief administrative officer of the department of labor and industrial relations and shall have supervision and control of all bureaus created under the provisions of this chapter, and, subject to such direction and control, shall have such other powers and duties as are hereinafter provided for and as may from time to time be prescribed by law. The director shall devote his entire time to the duties of his office. The director shall not serve on or under any committee of a political party.

The attorney shall have been a resident of the Territory for at

least three years preceding his appointment and shall have been actively engaged in the practice of law for at least five years and shall be duly licensed to practice in all of the courts of the Territory of Hawaii. The attorney shall perform such legal duties as are assigned to him by the commission. The attorney when appointed shall become a deputy of the attorney general of the Territory and shall report to the attorney general from time to time as he may be required.

"Sec. 4. Bureaus within the department. Said department shall consist of four bureaus, namely:

(a) The bureau of unemployment compensation, which shall be charged with the administration of Act 243 of the Session Laws of Hawaii 1937, as amended, when section 2 of this Act becomes effective;

(b) The bureau of workmen's compensation, which is charged with the administration of the provisions of chapter 245, as amended;

(c) The bureau of research and statistics, which shall be charged with collecting and assembling of statistics relating to labor and industrial relations; and

(d) The bureau of labor law enforcement, which shall be charged with the administration of the provisions of such labor laws as may be enacted from time to time.

Subject to any civil service act relating to territorial employees that may be enacted, the director shall appoint an assistant for, and to be in immediate supervision of, each of said bureaus, together with such clerical, stenographic and other help as may be necessary for the bureaus, and of the department as a whole.

"Sec. 5. Outer island agents. The director shall similarly appoint one agent for, and to maintain his office at the county seat of, each of the counties of Hawaii, Maui and Kauai. Said agents shall be directly responsible to the director for the proper performance within their respective counties of all duties and functions delegated to them by the director, and shall, as to the duties of each of the foregoing bureaus, be subject to the functional supervision of the respective assistants thereof.

"Sec. 6. Salaries. Salaries of all of the foregoing appointees and employees shall be as fixed by law.

"Sec. 7. Labor and industrial relations appeal board; appeals to and from. There is hereby created a labor and industrial relations appeal board, to consist of three members, to be appointed and be removable in the manner prescribed by section 80 of the Organic Act, and one of whom shall be designated by the governor as chairman. The members of the appeal board shall receive and be paid compensation for their services at the rate of ten dollars per day for each day's actual attendance upon their duties and their actual traveling and other expenses incurred in the performance of their duties. The members shall hold office for three years or until their successors are appointed and qualified; provided, that the first members shall be appointed for terms such that one term will expire on January 1 of each consecutive year commencing with and following January 1, 1941. Any vacancy shall be filled by appointment for the unexpired term involved. No officer or employee of the Territory or any political subdivision thereof shall be eligible for appointment to said

appeal board, nor shall any member of the appeal board serve on or under any committee of a political party. The provisions of section 84 of the Organic Act relating to the disqualification of judges shall be equally applicable to the members of the appeal board. Should any member of the appeal board be unable to act because of absence, temporary disability or disqualification, the governor shall have the power to make a temporary appointment and such appointee shall have all the powers and duties of a regular member of said appeal board.

The appeal board shall prescribe such method of procedure and manner of considering appeals as deemed by it advisable and practicable to assure the appellant a fair hearing, which shall not be of a technical or involved nature. The procedure shall be calculated as far as practicable to procure the earliest decision consonant with proper investigation and consideration of the appeal, and shall provide for notice immediately upon the making of the decision. All hearings before the appeal board shall be de novo and shall be open to the public.

The appeal board shall meet at the call of the chairman or of any two members and shall consider all appeals submitted to it from decisions of the director, including those involving the validity of rules of the commission; provided, that no matters involving mediation, arbitration or conciliation of industrial disputes shall be considered by the appeal board; and provided further, that appeals from the decisions of the director under chapter 245 in the counties of Hawaii, Maui and Kauai shall be made to the respective industrial accident boards of those counties. In considering any appeal the appeal board may call upon the director for any and all data and information available which may be pertinent thereto.

Any person deeming himself aggrieved by the decision of the appeal board shall have the same right to appeal therefrom, in the same manner and upon the same conditions, as is provided for by section 10 with respect to appeals from decisions of the commission. Appeals under chapter 245 from the appeal board in the city and county of Honolulu and from the industrial accident boards in the counties of Hawaii, Maui and Kauai shall be governed by the provisions in said chapter contained.

"Sec. 8. Powers respecting oaths, subpoenas, etc. In all hearings or investigations conducted by the commission, director, or any of his duly authorized subordinates, or the appeal board, with respect to any matters cognizable by any of them, each of said commissioners, each of said officers, and each member of said board, shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses, as are possessed by a circuit judge at chambers, and may take depositions and certify to official acts. The circuit court of any circuit upon application by any of them shall have power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit courts. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of administration for the bureau concerned.

No person shall be excused from attending or testifying or producing material books, papers, correspondence, memoranda and other records, before the commission, the director, his duly authorized subordinate or the appeal board, or in obedience to the subpoena of any of them, in any cause or proceeding before them, on the grounds that the testimony and evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individuals so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"Sec. 9. Duties and powers of the commission. In addition to such other duties and powers as may be conferred upon the commission by law, the commission shall have the power, jurisdiction, authority and duty:

(a) To file with the governor a written report or reports at such times, at least once in each year, and in such form as shall be requested by the governor covering the condition and activities of the department and each bureau thereof;

(b) To make, modify and repeal reasonable rules and regulations of general application for the protection of life, health and safety of employees in every employment or place of emp'oyment; provided that any such rules and regulations shall not conflict with any rules or regulations of the board of health of the Territory covering the same subject matter;

(c) To make, modify and repeal such other reasonable rules and regulations of general application as may be necessary to carry into effect any provisions of this chapter.

(d) The rules and regulations of the commission, and any amendments thereto, when approved by the governor and published as hereinafter provided, shall have the force and effect of law, and shall be enforced in the same manner as the provisions of this chapter.

All rules and regulations and all amendments and repeals thereof shall, unless otherwise prescribed by the commission, take effect thirty days after the first publication thereof and shall be filed in the office of the secretary of Hawaii.

Every rule and regulation adopted and every amendment or repeal thereof shall be published in English in a Honolulu newspaper of general circulation for such period of time as the commission may determine, and the commission shall deliver a copy to every person making application therefor. The commission shall include the text of each rule, or amendment thereto, in an appendix to the annual report of the department next following the adoption or amendment of such rule.

If there shall be practical difficulties or unnecessary hardships in carrying out a rule of the commission, the commission may, after public hearing, make a variation from such requirement if the spirit of the rule shall be observed. Any person affected by such rule, or his agent, may petition for such variation, stating the grounds there-

for. The commission shall fix a day for a hearing on such petition and give reasonable notice thereof to the petitioner. A properly indexed record of all variations made shall be kept in the office of the department and shall be open to public inspection.

Any person aggrieved by a rule or regulation of the commission may petition the commission for a review of the reasonableness or validity thereof. The commission may join in one proceeding all petitions alleging invalidity or unreasonableness of the same rule or regulation. The commission shall order a hearing if necessary to determine the issues raised, or if the issues have been considered in a prior proceeding the commission may, without hearing, confirm its previous determination. Notice of the time and place of hearings shall be given to the petitioner and to such other persons as the commission may determine. The decision of the commission shall be final unless an appeal is taken as provided in section 10.

"Sec. 10. Appeal from commission. If any person is aggrieved by the decision of the commission upon the petition for review authorized by section 9, he may, within twenty days after the decision of the commission is rendered, appeal to the circuit judge of the circuit in which he resides or has his principal place of business, and the hearing before such judge shall be de novo. Appeals to the circuit judge shall be perfected by filing a notice of appeal with the commission which shall be forwarded forthwith to the clerk of the circuit court of the circuit to which such appeal may be taken. Upon the filing of the notice of appeal with the commission, it shall forthwith file with the clerk of the court a certified copy of the hearings had before it in regard to the matter in which the appeal was taken, together with the original notice of appeal.

No rule or regulation of the commission shall be declared to be invalid because of any technical defect provided there is substantial compliance with the provisions of this chapter. Any prosecution or action for the enforcement thereof shall, if so ordered by the judge having jurisdiction, be stayed pending the final determination of such appeal. The decree of the circuit judge may be appealed to the supreme court. Except as provided in this section, no court shall have jurisdiction to review any rule or regulation of the commission or to restrain or interfere with its enforcement.

"Sec. 11. Duties and powers of director. In addition to such other duties and powers as may be conferred upon him by law, the director, subject to the supervision and control of the commission, shall have the power, jurisdiction, authority and duty:

- (a) To supervise and direct the operations and functions of the four bureaus herein created and of the outer island agents;
- (b) To cause the enforcement of rules and regulations of the commission;
- (c) To propose to the commission such rules and regulations or changes in rules and regulations, as he may deem advisable for the protection of life, health and safety of employees, in every employment or place of employment. The director may appoint committees composed of employers, employees and experts to suggest rules and regulations or changes therein;
- (d) To cooperate with any employee in the enforcement of a claim

for personal services against his employer in any case when, in his judgment, the claim is just and valid and where such individual claim is for \$200.00 or less; to hold hearings and satisfy himself as to the justice of any such claim; to take an assignment of any such wage claim, mechanic's lien, or any other lien of a worker in connection therewith, legal interest, costs and attorneys' fees, without being bound by any of the technical rules with reference to the validity of such assignment; to bring and prosecute civil actions for the collection of any such claims of persons who, in the judgment of the director, are entitled to his services, and whose claims are deemed valid and legally enforceable. The director shall have power to join various claimants in one claim or lien, and in case of suit to join them in one cause of action and in any such case any claim having priority over other claims shall not lose such priority by reason of such joinder; provided, however, that 'wage' as used herein shall include all amounts at which the services rendered are recompensed, whether the amount is fixed or ascertained on a time, task, piece, commission basis or other method of calculating such amount;

(e) The director, subject to the approval of the commission, shall have the power to make, amend and repeal rules necessary for the internal administration of the department; for the proper conduct of hearings before him or his authorized agents under this section. The director shall not be bound by technical rules of evidence in the conduct of such hearings.

"Sec. 12. **Mediation.** The commission shall have the power and duty to promote the voluntary mediation of disputes between employers and employees, and to avoid the necessity of resorting to lockouts, boycotts, black lists, strikes, discriminations and legal proceedings in the matters of employment. In pursuance of this duty, the commission may appoint temporary boards of mediation, consisting of one or more members, provide necessary expenses of such boards, order reasonable compensation not exceeding ten dollars per day for each member engaged in such mediation, prescribe rules of procedure for such boards, conduct investigations and hearings, and may do all things convenient and necessary to accomplish the purposes of this paragraph. The commission may designate the director to act as mediator.

Whenever a controversy shall arise between an employer and his employees which is not settled either in conference between the representatives of the parties or through mediation in the manner hereinbefore in this section provided, such controversy may by agreement of the parties be submitted to arbitration by three persons, one to be selected by the employer, one to be selected by the employees and the two so selected to select the third.

Whenever the governor shall find that all reasonable efforts for mediation have been made and failed and that the parties are unable or refuse to enter into an agreement for arbitration, he may appoint an emergency board of disinterested persons to investigate and report respecting the controversy. Such board shall be composed of such number of persons as the governor may deem desirable. The compensation of the members of any such board shall be fixed by the governor, which compensation, together with all necessary traveling and other expenses, shall be provided by the director out of funds made available to the department. Such board shall be created separately in each instance and it shall investigate promptly the

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facts as to the controversy and make report thereon, together with its recommendations, to the governor with all reasonable dispatch and in any event not later than thirty days from the date of its creation.

"Sec. 13. Penalties. Any employer, employee or other person who wilfully violates any lawful rule or regulation of the commission shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, or by imprisonment of not more than six months, or by both fine and imprisonment, for each such offense; and each day such violation continues may be deemed a separate offense in the discretion of the court.

"Sec. 14. Powers and duties of bureau of research and statistics; employers to keep certain records. The bureau of research and statistics shall have the following powers and duties:

(a) It shall investigate and gather data regarding the wages, hours and other conditions and practices of employment in the Territory, and may enter and inspect such places and such records (and make such transcriptions thereof), and investigate such facts, conditions, practices or matters as are necessary or appropriate to carry into effect the duties imposed upon it under this chapter or under the rules of the commission;

(b) It may investigate, collect and publish such information relating to the cost of living in the Territory as it may deem advisable;

(c) It shall collect, file and publish such information relating to labor and industrial relations and shall perform such other duties as the director or the commission shall by rule prescribe.

Every employer subject to any provisions of this chapter or of any rule or regulation of the commission issued under this chapter shall make, keep and preserve such records of the persons employed by him and of the wages, hours and other conditions and practices of employment maintained by him, and preserve such records for such periods of time, as the commission may by rule prescribe. The director or his authorized representative shall for the purpose of examination have access to and the right to copy from such records any matter or thing pertinent to this section, and every employer shall furnish to the director or his authorized representative on demand a copy under oath of such material portion of such records as the director or his authorized representative shall require, and if the director shall so require, upon forms prescribed or approved by him.

"Sec. 15. Powers and duties of bureau of labor law enforcement. The bureau of labor law enforcement shall have the following powers and duties:

- (a) To enforce the child labor provisions of this chapter;
- (b) To enforce the provisions of this chapter relative to the regulation of commercial employment agencies;
- (c) To enforce any other labor laws enacted by the legislature of the Territory;
- (d) To enforce, when so required by the director or the commission, any rules or regulations of the commission. The bureau shall

have power and authority to institute proceedings to enjoin any employer from violating the provisions of this Act or of the rules or regulations of the commission when any such employer is violating any such provision or is threatening to do so and the circuit judges at chambers are hereby vested with jurisdiction in the premises;

- (e) To conduct investigations in connection with the foregoing;
- (f) To perform such additional duties as the director or commission shall by rule prescribe.

"Sec. 16. Commercial employment agencies; regulation of. No commercial employment agencies shall be conducted in the Territory after January 1, 1940, unless a permit to conduct the same has been obtained under the provisions hereof.

The commission shall have power and is hereby authorized to prescribe reasonable rules upon compliance with which permits shall be issued by the director for the conduct of employment agencies. Such rules may prescribe:

- (a) The type and method of application for permits, and the form and content of permits;
- (b) The method of payment of fees;
- (c) Safeguards to prevent fraud, misrepresentation, and duress, the splitting of fees and unlawful employment;
- (d) Maximum fees to be charged, provided that no maximum fee shall in any case exceed ten per centum of the first month's wages;
- (e) The physical requirements and sanitation of the premises in which such agencies may be conducted;
- (f) The keeping and form of registers, books, records, statistical data, receipts, reference and introduction cards, contracts and other forms, and the time and manner of reporting thereon to the department;
- (g) The posting of sections of this chapter and of rules, the license, the schedule of fees, and other notices and statements as deemed necessary;
- (h) The definition and classification of services, occupations and employments for which fees are charged or received;
- (i) The return of fees, or portions thereof, to applicants where the employment, engagement or help proves to be temporary; or where the fee was unjustly collected;
- (j) The definition of terms customarily used and standard forms of contracts, receipts and other forms and standard clauses therein;
- (k) The conduct of employment agencies offering a highly specialized service as teachers, theatrical and professional agencies;
- (l) For the proper enforcement of any provision of this section.

Any person conducting a commercial employment agency in the Territory without having an uncanceled permit so to do, and any person who violates any of the provisions of this section or any rule

or order promulgated under this section, shall be guilty of a misdemeanor, and be punishable therefor as prescribed in section 13 of this chapter.

"Sec. 17. Cooperation with federal agencies. The commission may and it hereby is authorized to assist and cooperate with the wage and hour division, United States department of labor and the chief of the children's bureau in the department of labor, in the enforcement within this Territory of the Fair Labor Standards Act of 1938, approved June 25, 1938, and, subject to regulations of the administrator of the wage and hour division and of the chief of the children's bureau and the laws of the Territory applicable to the receipt and expenditure of money, may be reimbursed by said division or said chief for the reasonable cost of such assistance and cooperation.

"Sec. 18. Child labor. Nothing in this section shall be construed to apply to the work of a minor in domestic service, agricultural labor, or work in other than a hazardous occupation, performed outside school hours in connection with the minor's own home and directly for his parent or guardian, nor to the work of a minor performed in connection with the sale or distribution of newspapers, nor to the work of a minor more than fourteen years of age outside of school hours and during school vacations in private homes and in agricultural labor.

(a) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation at any time, provided, that minors between twelve and sixteen years of age may work outside school hours and during school vacations but not in a factory or in any gainful occupation otherwise prohibited by law;

(b) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any power-driven machinery, or in any occupation which the commission shall, after public hearing thereon, by rule declare to be particularly hazardous for the employment of such minor or detrimental to his life, health, safety or wellbeing, nor shall any such minor be employed or permitted to work in, about, or in connection with any gainful occupation more than six consecutive days in any one week, or more than forty hours in any one week, or more than eight hours in any one day, or before seven o'clock in the morning or after six o'clock in the evening of any day. The combined hours of work and hours in school of minors under sixteen employed outside school hours shall not exceed a total of nine per day.

The commission, for good cause, may, by rule or regulation, make a variation in the number of days per week, and in the hours specified in this subsection for the commencement and termination of the work-day, where such variation will not be detrimental to the health or well-being of such minors.

(c) No minor under eighteen years of age shall be employed or permitted to work for more than five hours continuously without an interval of at least thirty minutes for a lunch period and no period of less than thirty minutes shall be deemed to interrupt a continuous period of work.

(d) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occu-

pation, unless and until the person employing such minor shall procure and keep on file an employment certificate for such minor, issued by persons appointed by the director in such form and under such conditions as he may prescribe. Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates, permitting employment during the school vacation and during the school term at such times as the public schools are not in session.

Such certificates shall be issued in triplicate and the original shall be mailed by the person issuing the same to the prospective employer. One copy shall be retained in the office of the person issuing the same and one copy shall be mailed to the director within one week after its issuance. Persons designated to issue employment certificates may refuse to grant a certificate if, in their judgment, the best interests of the minor would be served by such refusal.

Every employer receiving an employment certificate shall, upon the commencement of the employment of such minor, so notify the person issuing the certificate in writing, and immediately after termination of the employment shall return said certificate to him. The director may revoke any employment certificate if in his judgment it was improperly issued or the minor is illegally employed.

(e) The commission shall prescribe such rules for the issuance of employment certificates as will promote uniformity and efficiency in the administration of this section. The director shall supply to issuing officers all blank forms to be used in connection with the issuance of such certificates;

(f) Any person who wilfully violates any provision of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both such fine and imprisonment.

"Sec. 19. [Advisory committees.] The commission may appoint advisory committees to consult with and advise any bureau created by this chapter.

"Sec. 20. Whenever in this chapter reference is made to 'this chapter', said term, unless the context clearly indicates otherwise, shall include also any other chapter or section of the Revised Laws amended by the Act enacting this chapter and any other provisions of said Act."

Section 2. (a) Upon the effective date of this section, as provided in section 9 hereof, the board and commissions created by Act 243 of the Session Laws of Hawaii 1937, as amended, shall cease to exist and the administration of said Act, as amended, and all of the powers and duties of said board and commissions shall be vested in the commission of labor and industrial relations, created under this Act; provided, however, that the duties and powers of the unemployment compensation commissions of the counties of Hawaii, Maui and Kauai, relating to appellate matters as provided in said Act 243, as amended, shall be vested in the industrial accident board of Hawaii, Maui and Kauai, as provided in section 7506 of the Revised Laws of Hawaii 1935, as amended, and provided, further, that the duties and powers of the unemployment compensation commission of the city and county of Honolulu, relating to appellate matters, as provided in said Act

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243, as amended, shall be vested in the labor and industrial relations appeal board created by this Act; and provided, further, that the commission of labor and industrial relations shall prescribe the rights, duties and powers of the director of labor and industrial relations relating to the supervision and control of the bureau of unemployment compensation created under this Act.

All appeals from any county unemployment compensation commission to the territorial unemployment compensation board, which are pending and undisposed of on the effective date of this section, shall be transferred to and heard and disposed of by the labor and industrial relations appeal board created by this Act.

All appeals to any county unemployment compensation commission which are pending and undisposed of on said effective date shall be transferred to and heard and disposed of by the appropriate industrial accident board of the county of Hawaii, Maui or Kauai and by the labor and industrial relations appeal board in the city and county of Honolulu.

(b) Except as herein otherwise provided, the rights, powers and duties heretofore conferred upon the territorial unemployment compensation board and upon each county unemployment compensation commission by the provisions of said Act 243, as amended, are continued in full force and effect and are hereby transferred to the commission of labor and industrial relations. All other functions of the territorial unemployment compensation board and of the county unemployment compensation commissions shall henceforth be exercised by the commission of labor and industrial relations which shall operate, in this respect, through the bureau of unemployment compensation created by this Act.

(c) Upon the effective date of this section, all records, papers, files, property, and pending business of the unemployment compensation board and of the several county unemployment compensation commissions, shall become the records, papers, files, property, and pending business of the commission of labor and industrial relations and all unexpected funds and appropriations available to be expended by the said board and commissions shall become the funds and appropriations available to be expended by the commission of labor and industrial relations for the purposes for which the funds were made available or the appropriation made and in the exercise of the rights, powers, and duties conferred by law upon the commission of labor and industrial relations.

(d) Nothing herein contained shall affect any right, claim, or liability accrued or existing prior to the effective date of this section. In all actions or proceedings pending at the effective date of this section, pursuant to any of the powers or duties transferred pursuant to the provisions of this section and to which the officer, agency, board, or commission heretofore vested with such powers and duties is a party, the commission of labor and industrial relations shall be substituted as party to such actions or proceedings, which shall continue without abatement. Any rule, regulation, or order made and any act done by any such officer, agency, board or commission, pursuant to the powers and duties hereby transferred pursuant to the provisions of this section, shall continue to have the same force and effect until amended or rescinded by the commission of labor and industrial relations.

Section 3. Chapter 245 of said Revised Laws is hereby amended in the following respects:

(1) By substituting: for either of the terms "board" or "industrial accident board", the word "director"; for the word "its", the word "his"; for the word "it", the word "he" or "him", as may be appropriate; wherever any of the same respectively occur, in any of the following sections thereof and more particularly in the following paragraphs and lines of said sections, namely:

Section	Lines
7486, par. 2	5, 6
7486, par. 6, as enacted by Act 66, Sr. D-154, S. L. 1937	4
7490	12-13
7491	12 and 16
7493	2 and 9, on p. 1146 R. L. 1935
7493, par. 3, as enacted by said Act 66	6, 10
Same	5, on p. 264, S. L. 1937
7493, par. 4, as enacted by said Act 66	13-14, 19
7496	4
7497	1, 2
7498	1, 3, 5
7499	2, 6
7500	2
7501, as am. by Act 124, Sr. D-155, S. L. 1937	3 and 13 of 2nd par.
7510	3, 6, 9, 11
7517	2, 4, 7, 11, 12
7525	last
7526, par. 3	2
7526, par. 4	1
7526, last par.	1
7527	3
7528	8, 9
7529	last
7532	last
7535	1, 3
7536	6, 10, 11, 18, 24

(2) By substituting for the words "chairman of said board and attested by the secretary of the board", in the 7th-8th lines of paragraph 3 of section 7493 thereof, as added by said Act 66, the words "director or his duly authorized subordinate."

(3) By repealing sections 7508 and 7509, and by amending section 7506 to read as follows:

"Sec. 7506. Creation of boards in Hawaii, Maui and Kauai; jurisdiction; salaries and expenses. There shall be a board to be known as the industrial accident board, in each of the counties of Hawaii, Maui and Kauai, consisting of five members to be appointed by the governor, as provided by section 80 of the Organic Act. Each board shall elect its own chairman. Members of the boards shall hold office for

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five years except that when the boards are first constituted one member for each board shall be appointed for one year, one for two years, one for three years, one for four years and one for five years. Thereafter one member shall be appointed to each board every year for the full term of five years. Outgoing members shall be eligible for reappointment.

It shall be the duty of the county attorney to act as attorney for the board in all matters coming before the board whenever requested to so act.

Each such board shall, as to injuries occurring within the county for which it is appointed, or occurring to employees of residents of such county while the employees are without the Territory or are on vessels operated by residents of such county, act in the same capacity, with the same powers, functions and duties, and in the same manner as does the labor and industrial relations appeal board in the instance of injuries occurring within the city and county of Honolulu. The foregoing, together with their functions as appellate bodies under Act 243, Session Laws of Hawaii 1937, as amended, as conferred in section 2 of this Act, shall constitute the only functions of such boards.

The members of such boards shall be entitled to the same remuneration and expenses as the members of said appeal board, which, together with the necessary administrative expenses of such boards, shall be paid as provided in section 8 of chapter 259B." [L. 1915, c. 221, s. 26; R. L. 1935, s. 7506; am. L. 1939, c. 237, s. 3, par. 3.]

(4) By amending section 7507 thereof to read as follows:

"Sec. 7507. Director; jurisdiction and administration of chapter. The director, through the bureau of workmen's compensation, shall have original jurisdiction over all injuries, and all matters of administration coming within the purview of this chapter. The assistant to the director in charge of the bureau of workmen's compensation and his staff shall investigate to such extent as may appear necessary every injury within the purview of this chapter, which may be reported to or come to the notice of the bureau, and shall report the results of such investigation, with the recommendations of such assistant, to the director. The director shall cause to be printed and furnished free of charge to any employer or employee such blank forms as he shall deem requisite to facilitate or promote the efficient administration of this chapter. The blanks shall also be furnished by the director to the clerks of the respective circuit courts, who shall furnish the same to any employer or employee free of charge, but subject, however, to any rules that the commission shall make relating thereto. The commission may make rules, not inconsistent with this chapter, for carrying out the provisions of this chapter, which, when promulgated in the manner provided by chapter 259B, shall have the force and effect of law. It shall be the duty of the county attorney of any county wherein a hearing is held, or an investigation is made, under this chapter, upon request to act as attorney for the bureau in such investigation or hearing." [L. 1915, c. 221, s. 27; R. L. 1935, s. 7507; am. L. 1935, c. 56, s. 1; am. L. 1939, c. 237, s. 3, par. 4.]

(5) By amending sections 7511 and 7512 thereof to read, respectively, as follows:

"Sec. 7511. Award; committee on arbitration. If the compensation is not settled by agreement, the director shall, upon the filing with the bureau of a copy of the claim for compensation, make such further investigation as he shall deem necessary, and shall make an award which shall be filed with the record of proceedings, and shall state his conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award; provided, however, that at any time prior to the filing with the bureau of a copy of the claim for compensation, either party may make application to the director for the formation of a committee of arbitration. The committee shall consist of three members, one of whom shall be appointed by the director and shall act as chairman. The other two members shall be named, respectively, by the parties. If a vacancy occurs, it shall be filled in the same way as the original appointment. [L. 1915, c. 221, s. 31; am. L. 1917, c. 227, s. 7; R. L. 1935, s. 7511; am. L. 1939, c. 237, s. 3, pt. of par. 5.]

"Sec. 7512. Formation of committee. Immediately after the application, the director shall designate a person to act as a member and chairman of the committee of arbitration, and shall request the parties to appoint their respective representatives. If within seven days after the request, or after a vacancy has occurred, either party does not appoint his representative, the director shall fill the vacancy and notify the parties to that effect." [L. 1915, c. 221, s. 32; R. L. 1935, s. 7512; am. L. 1939, c. 237, s. 3, pt. of par. 5.]

(6) By substituting for the words "industrial accident board of", in the 7th line of section 7513 thereof, the words "office of the bureau in".

(7) By substituting for the words "Each industrial accident board", in the 1st line of section 7514 thereof, the words "The director".

(8) By substituting for the words "respective boards" in the last two lines of section 7515 thereof, the word "bureau".

(9) By amending section 7516 thereof to read as follows:

"Sec. 7516. Review of award, or failure of committee to make award. If an application for review is made to the director, or if the committee fails to make an award within thirty days after its formation, the director shall make a full investigation and shall make an award which shall be filed with the record of proceedings, and shall state his conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award." [L. 1915, c. 221, s. 36; R. L. 1935, s. 7516; am. L. 1939, c. 237, s. 3, par. 9.]

(10) By amending section 7518 thereof to read as follows:

"Sec. 7518. Appeals from award of director. An award of the director shall be final and conclusive between the parties except as provided in section 7517, unless within twenty days after a copy has been sent to the parties, either party appeals therefrom, by filing with the bureau or county agent a written notice of appeal. In the case of injuries occurring in the city and county of Honolulu, or occurring to employees of residents of such city and county while the employees are without the Territory or are on vessels operated by residents of such city and county, the appeal shall be to the appeal board. In the case of other injuries it shall be to the proper industrial accident board, as provided for in section 7506. In all cases of appeal the appeal board

or the industrial accident board, as the case may be, and in either event hereinafter referred to as the 'appellate board', shall be notified of the pendency thereof by the bureau, and no compromise shall be effected in any appeal until after the director shall have been notified of the proposed terms thereof and shall have had an opportunity to be heard relative thereto.

The appellate board shall hold a full hearing de novo on the appeal and make its award in writing, which shall be filed with the record of the proceedings, and shall be in the same form required in the case of an award by the director. The appellate board shall immediately send to the parties and the director a copy of the award.

The appellate board may certify questions of law to the supreme court for its determination." [L. 1915, c. 221, s. 38; am. L. 1923, c. 249, s. 7; R. L. 1935, s. 7518; am. L. 1939, c. 237, s. 3, par. 10.]

(11) By adding to said chapter a new section, numbered 7518.1, to read as follows:

"Sec. 7518.1. Appeals from appellate board; jury waived when. The decision and award of the appellate board upon any appeal to it shall be final and conclusive between the parties except as provided in section 7517, unless within twenty days after a copy has been sent to the parties, either party appeals to the circuit court in the county wherein the injuries occurred (except in the case of the county of Hawaii, in which case all appeals shall be made to the fourth circuit court), or wherein the employer resides, in the case of an employee injured while without the Territory or on vessels operated by residents of the county. In all cases of such appeal, the director and the appellate board shall be notified of the pendency thereof by the clerk of the court in which the proceedings are pending, and no compromise shall be effected in any such appeal until after the director shall have been notified by the clerk of the proposed terms thereof, and shall have had an opportunity to be heard relative thereto. It is provided, however, that in all appeal cases in which a trial by jury is had the cause shall be submitted to the jury on questions of fact stated to them by the court pursuant to section 4100 of the Revised Laws of Hawaii 1935.

The right of trial by jury shall be deemed to be waived unless claimed within ten days from the date the appeal is entered. The court may, by proper rules, prescribe the procedure to be followed in the case of such appeals."

(12) By amending section 7519 thereof to read as follows:

"Sec. 7519. Enforcement of award. Any party in interest may file in the circuit court in the jurisdiction of which the injury occurred, a certified copy of (1) a decision of the director awarding compensation, from which no appeal has been taken within the time allowed therefor; or (2) of a decision of the director awarding compensation, from which decision an appeal has been taken but as to which decision neither the director nor the appellate board nor the court has ordered that the appeal therefrom shall operate as a supersedeas or stay; or (3) of a decision of an arbitration committee awarding compensation, from which no claim for review has been filed within the time allowed therefor; or (4) of a memorandum agreement approved by the director; or (5) of a decision of the appellate board awarding compensation, from which no appeal has been taken within the time

allowed therefor; or (6) of a decision of the appellate board awarding compensation, from which an appeal has been taken but as to which decision neither the appellate board nor the court has ordered that the appeal therefrom shall operate as a supersedeas or stay; whereupon the court shall render a decree or judgment in accordance therewith and notify the parties thereof. The decree or judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the decree or judgment had been rendered in a suit duly heard and determined by the court, except that there shall be no appeal therefrom; provided, however, that in all cases where an appeal from the decision concerned has been taken within the time provided therefor, but where neither the director nor the appeal board nor the court has ordered that the appeal shall operate as a supersedeas or stay, the decree or judgment of the circuit court shall provide that the decree or judgment shall become void in the event that the decision or award of the director or appellate board, as the case may be, shall finally be set aside.” [L. 1915, c. 221, s. 39; am. L. 1917, c. 227, s. 9; R. L. 1935, s. 7519; am. L. 1939, c. 237, s. 3, par. 12.]

(13) By substituting for the words “industrial accident”, in the 1st line of **section 7520** thereof, the words “director, appellate”; and by inserting, after the word “ground” in the 4th line of said section, the words “he or”.

(14) By amending sections 7521 and 7522 thereof to read, respectively, as follows:

“Sec. 7521. General powers of director. All questions arising under this chapter, if not settled by agreement of the parties interested therein with the approval of the director, shall, except as otherwise herein provided, be determined by the director. The decisions of the director shall be enforceable by the circuit court under the provisions of section 7519. There shall be a right of appeal from the decisions of the director to the appellate board, and thence to the circuit court, as provided in sections 7518 and 7518.1, but in no case shall an appeal, either under this section or under any of said sections 7518 and 7518.1, operate as a supersedeas or stay unless the appellate board or the circuit court shall so order. [L. 1915, c. 221, s. 41; R. L. 1935, s. 7521; am. L. 1939, c. 237, s. 3, pt. of par. 14.]

“Sec. 7522. Revision of awards or decrees. The appellate board and the circuit court, upon the filing with each of a certified copy of a decision of the director ending, diminishing, or increasing compensation previously awarded, shall revoke or modify its prior award, decree or judgment (if any) so that it will conform to the decision.” [L. 1915, c. 221, s. 42; R. L. 1935, s. 7522; am. L. 1939, c. 237, s. 3, pt. of par. 14.]

(15) By inserting, immediately preceding the word “board”, in the 10th line of **section 7523** thereof, the words “director, the appellate”.

(16) By inserting, immediately preceding the word “circuit”, in the last line of the last paragraph of **section 7526** thereof, the words “appellate board and the”; and by substituting for the words “section 7518”, in said line, the words “sections 7518 and 7518.1”.

(17) By substituting for the words “chairman of the board”, in the 4th and 5th lines of **section 7528** thereof, the word “director”; and by

substituting, for the word "board" in the 7th line of said section, the word "bureau".

(18) By amending section 7538 thereof to read as follows:

"**Sec. 7538. Report of director.** Annually on or before February 1, the director shall make a report to the governor, which shall be transmitted to the legislature, and which shall include a properly classified statement of the expenses of the bureau, together with any other matters which the director deems proper to report, including any recommendations he may desire to make." [L. 1915, c. 221, s. 58; R. L. 1935, s. 7538; am. L. 1939, c. 237, s. 3, par. 18.]

(19) By inserting, immediately preceding the word "board", in the 3rd line of **section 7539 thereof**, the word "appellate".

(20) By deleting from **section 7540** thereof the paragraph, in the 31st and 32nd lines thereof defining "board"; and by adding to said section, at the end thereof, the following additional paragraphs:

"11. 'Bureau' means the bureau of workmen's compensation of the department of labor and industrial relations provided for by chapter 259B.

12. 'Director' means the director of labor and industrial relations provided for by chapter 259B, who is charged with the administration and enforcement of this chapter, through the bureau of workmen's compensation, and said term shall include any subordinate of the director to whom he may lawfully delegate any of his powers and duties under this chapter.

13. 'Appeal board' means the labor and industrial relations appeal board provided for by chapter 259B."

Section 4. On the effective date of this Act as to any board or commission, the functions of which are by this Act transferred to the department of labor and industrial relations, all officers and employees then in the employ of such board or commission shall continue in their respective offices or employments under the jurisdiction and control of the respective divisions or bureaus to which the functions of said respective boards and commissions are hereby transferred, for a period of not more than three months after such effective date. The employment of all such officers and employees who are not reappointed by the director within said period shall cease.

The decisions of any court upon appeals in workmen's compensation cases pending and undisposed of upon the effective date of this Act shall be given effect in the same manner as corresponding appeals commenced after said effective date.

This Act, except as otherwise expressly or by necessary implication required or provided herein, shall not affect the validity or effectiveness of any award or decision made, rules promulgated, or act done, or the enforceability of any rights, liabilities, penalties or forfeitures, accruing, acquired or incurred, prior to said effective date under any law amended by this Act, but the same shall be given effect and enforced in the same manner and to the same extent, as nearly as may be, except for the substitution, wherever appropriate, of the officers or agencies created by this Act in lieu of those provided by said laws prior to their amendment by this Act, as if this Act had not been

enacted, subject to such changes or other or further action by the commission of labor and industrial relations, through the director or his subordinates or otherwise, as may legally be made or taken under this Act or said laws as amended by this Act.

All records, furniture, equipment and supplies held by, and all funds standing to the credit of, the industrial accident board of the city and county of Honolulu on the effective date of this Act are hereby transferred, and shall be then delivered over, to the commission of labor and industrial relations.

All records held by, and all funds standing to the credit of the industrial accident boards of the counties of Hawaii, Maui and Kauai on the effective date of this Act, and all furniture, equipment and supplies then held by them which are not necessary for their functioning thereafter as appellate boards, are hereby transferred, and shall be then delivered over, to the commission of labor and industrial relations.

The term "effective date of this Act", as used in this section, means the date upon which the provisions of this Act relating to the board, commission, person or thing concerned take effect.

Section 5. The commission shall conduct and investigate labor conditions throughout the Territory, particularly as pertain to hours during which employees are required to work and wages paid for such employment, to the end that the commission may thereby render a report to the 1941 session of the territorial legislature, with which duty it is hereby charged, containing its recommendations for a minimum wage and maximum hour bill which will be feasible, practicable, and fair to employees, employers and the general public. In conducting such investigation the commission may employ the director or any of the bureaus herein created. It may provide for the appointment and appoint any volunteer boards to assist it in making the investigations and arrive at the recommendations it is herein charged to make.

Section 6. If any portion of this Act, or of any other law as amended by this Act, or its application to any person or circumstance, is held unconstitutional or invalid, the validity of the remainder of this Act or of said other law, or the application of said portion to other persons or circumstances, shall not be affected.

Section 7. All territorial laws or parts of laws inconsistent with the provisions of this Act, or of any other law as amended by this Act, are hereby amended to conform to this Act and to said other law as amended by this Act.

Section 8. There is hereby appropriated from the general fund of the Territory of Hawaii for the period ending June 30, 1941, the sum of one hundred and twenty thousand dollars (\$120,000.00) for the expenses of the department of labor and industrial relations. The governor shall require the department of labor and industrial relations to submit to him a budget of its proposed expenses and he shall thereafter fix a budget for said department and the amount by which such budget may be less than the appropriation herein made shall, upon order of the governor, lapse.

Section 9. This Act shall take effect on January 1, 1940, provided that the members of the commission may be appointed prior to said date and that the director of labor and industrial relations may be

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appointed prior to January 1, 1940, and may appoint his subordinates prior to, but to take effect on, said date, and all officers and employees employed under any of the laws hereby amended shall cooperate with the director in preparing for the transfer of powers, duties, functions and property required by this Act, for the purpose of avoiding undue confusion or stoppage of necessary public business; and provided further that section 2 of this Act shall not take effect unless the social security board created by the Act of Congress approved August 14, 1935, as amended, shall have given its approval, at least three months prior to January 1, 1940, to the unemployment compensation law of the Territory, as amended, and as amended by this Act, as provided in Title IX of the Social Security Act, and unless the social security board shall certify for payment to the Territory such payments as said board determines to be necessary for the proper administration of the unemployment compensation law in the Territory, as provided in Title III of said Social Security Act; and provided further, that section 8 hereof shall take effect July 1, 1939.

(Approved May 16, 1939.) **S.B. 185, Act 237.**

CHAPTER 260. RETIREMENT SYSTEM.

[D-184] An Act to Amend Chapter 260, Revised Laws of Hawaii 1935, Relating to the Employees' Retirement System of the Territory of Hawaii, by Amending Section 7926 Thereof to Provide for the Investment and Management of Funds of the Retirement System and to Provide for the Payment of Handling and Service Charges on Certain Investments.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7926, Revised Laws of Hawaii 1935, is hereby amended by amending paragraph 1 thereof to read as follows:

"Sec. 7926. Management of funds.

I (a). The board shall be trustees of the several funds of the system as provided in section 7927 and shall have full power to invest and reinvest such funds as authorized by said section and by law from time to time provided. Subject to the terms, conditions, limitations and restrictions of this section and by law from time to time provided, the trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of the investments and any moneys belonging to the funds.

(b). Investments may be made in:

I. **Real estate.** Such real estate as may be conveyed to it by way of mortgage, or in trust or otherwise, to secure or provide for the payment of loans previously contracted or moneys due; such real estate as may be purchased at sales upon foreclosure of mortgages or under trust or in enforcing any security or under judgments or decrees obtained for loans, debts or claims due it, or on executions issued upon judgments or decrees; and such real estate as may be conveyed

to it in satisfaction of debts previously contracted in the course of its dealings. All real estate acquired at sales upon foreclosure of mortgages or otherwise must be sold and disposed of within five years after acquiring title to the same; provided, that the governor may, for cause shown, extend this time for periods not exceeding five years each;

II. Secured bonds. Bonds and notes secured by first mortgages or deeds of trust on unencumbered improved real estate owned in fee simple worth at least sixty-five centum more than amount of the first mortgages or deeds of trust; provided that no building shall be included in such value beyond the amount of the insurance thereon for which a policy shall have been transferred to it, and shall be kept in force as long as the loan continues;

III. Government bonds. Bonds which are a direct obligation of the United States or of the Territory or any municipal subdivision thereof, or of any state, county, city, town, township or school district within the United States, either having a population of fifty thousand inhabitants or over, or whose indebtedness, deducting sinking funds available for the payment of its bonds, does not exceed ten per centum of the valuation of property therein as assessed next preceding the date of the investment;

IV. Utility and railroad bonds. Bonds and notes of any railroad, street railway, or public utility located in the Territory or wholly or principally in the United States, the capital stock of which equals at least one-third of its funded indebtedness, which for the three years preceding the date of the investment has regularly paid all interest charges on its funded indebtedness, and for that period has regularly earned, after deducting all proper charges, at least three per centum upon all issues of its paid up capital stock, or in the mortgage bonds of any railroad, railway, or terminal corporation which have been, both as to principal and interest, assumed or guaranteed by any such railroad or railway corporation;

V. Agricultural and milling bonds. Bonds of any agricultural or milling company located in the Territory of Hawaii which is and has been a going concern for a period of at least ten years, secured by first mortgages or deeds of trust on unencumbered real estate owned in fee simple by such company, including mills, machinery, power plants, reservoirs, ditches, wells, pipe lines and all other improvements thereon worth at least two times the amount of the bonds issued, excluding however from such value the value of growing crops thereon; provided that the first mortgages or deeds of trust securing said bonds contain a provision for sinking funds which will retire at least fifty per centum of said bonds at maturity;

VI. Bonds, debentures and notes issued by any Federal Home Loan Bank, or consolidated Federal Home Loan Bank bonds, notes or debentures;

VII. Bonds of the Home Owners' Loan Corporation;

VIII. Notes or bonds secured by mortgages insured pursuant to Title II of the Act of Congress, entitled 'National Housing Act', and in securities issued by national mortgage associations organized under Title III of the Act of Congress, entitled 'National Housing Act';

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IX. Loans secured by collateral security consisting of any of the above worth at least fifteen per centum more than the amount of the loan.

(c) The board may pay out of any of the several funds held for investments a reasonable amount to any person, firm or corporation for the servicing and handling of eligible mortgages purchased by the board."

Section 2. This Act shall take effect upon its approval.

(Approved March 9, 1939.) **H.B. 85, ACT 5.**

CHAPTER 260A. UNEMPLOYMENT COMPENSATION LAW.

[D-185] An Act to Amend Act 243 of the Session Laws of Hawaii 1937, Relating to the Unemployment Compensation Law.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 243 of the Session Laws of Hawaii 1937 is hereby amended to read as follows:

"SHORT TITLE"

"Section 1. This Act shall be known and may be cited as the Hawaii Unemployment Compensation Law.

"DEFINITIONS"

"Section 2. As used in this Act, unless the context clearly requires otherwise:

(a) 'County' shall be deemed to include the city and county of Honolulu.

(b) 'Commission' means the county unemployment compensation commission created by this Act in each of the counties.

(c) 'Board' means the territorial unemployment compensation board created by this Act.

(d) 'Base period' means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(e) 'Benefits' means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

(f) 'Benefit year' with respect to any individual means the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the 52-consecutive-week period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with section 6 (a) of this Act shall be deemed to be a 'valid claim'

for the purpose of this subsection if the individual has earned the wages for insured work required under section 4(e) of this Act.

(g) 'Contributions' means the money payments to the Territorial Unemployment Compensation Fund required by this Act.

(h) 'Calendar quarter' means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof, as the board may by regulation prescribe.

(i) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ one or more individuals performing services for it within this Territory. All individuals performing services within this Territory for any employing unit which maintains two or more separate establishments within this Territory shall be deemed to be employed by a single employing unit for all the purposes of this Act. Whenever any employing unit contracts with or has under it any contractor or sub-contractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or sub-contractor is an employer by reason of section 2 (j) or section 8 (c) of this Act, the employing unit shall for all the purposes of this Act be deemed to employ each individual in the employ of each such contractor or sub-contractor for each day during which such individual is engaged solely in performing such work; except that each such contractor or sub-contractor who is an employer by reason of section 2 (j) or section 8 (c) of this Act shall alone be liable for the employers' contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or sub-contractor who is not an employer by reason of section 2 (j) or section 8 (c) of this Act, may recover the same from such contractor or sub-contractor. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(j) 'Employer' means:

(1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day);

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act;

(3) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit if the employing record of such individual or employing unit subsequent to such acquisition, together with the employing record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an employer subject to this Act under paragraph (1) of this subsection;

(4) Any employing unit which, together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing units or interests, or both, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit which, having become an employer under paragraph (1), (2), (3), or (4), has not, under section 8, ceased to be an employer subject to this Act; or

(6) For the effective period of its election pursuant to section (8) (c) any other employing unit which has elected to become subject to this Act.

(k) (1) 'Employment', subject to the other provisions of this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term 'employment' shall include an individual's entire service performed within or both within and without the Territory of Hawaii if,

(A) the service is localized in the Territory; or

(B) the service is not localized in any state but some of the service is performed in the Territory and (1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in the Territory; or (2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in the Territory.

(3) Services not covered under paragraph (2) of this subsection and performed entirely without the Territory, with respect to no part of which contributions under this Act are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this Act if the individual performing such services is a resident of the Territory and the board approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this Act.

(4) Service shall be deemed to be localized within the Territory if,

(A) the service is performed entirely within the Territory; or

(B) the service is performed both within and without the Territory, but the service performed without the Territory is incidental

to the individual's service within the Territory, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this Act unless and until it is shown to the satisfaction of the board that,

(A) such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(B) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) such individual is customarily engaged in an independently established trade, occupation, profession, or business.

(6) The term 'employment' shall not include

(A) Agricultural labor;

(B) Domestic service in a private home;

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(E) Service performed in the employ of any other state or of any political subdivision thereof, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of an instrumentality of the United States, except that if the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation Act, then, to the extent permitted by Congress, and from and after the date as of which such permission becomes effective, all of the provisions of this Act shall be applicable to such instrumentalities and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. Provided that if the Territory should not be certified by the social security board under section 903 of the social security Act for any year, then the payments required of such instrumentalities with respect to such year shall be deemed to have been erroneously collected within the meaning of section 9 (e) of this Act and shall be refunded by the board from the unemployment compensation fund in accordance with such provisions of section 9 (e) of this Act.

(F) Service performed in the employ of the Territory of Hawaii, or of any political subdivision thereof, or of any instrumentality of the Territory of Hawaii or its political subdivisions;

(G) Service performed in the employ of a corporation, community chest fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net

earnings of which inures to the benefit of any private shareholder or individual;

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress: Provided, that the board is hereby authorized and directed to enter into agreements with the proper agencies, under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in section 10 (d) of this Act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act.

(I) 'Employment office' means a free public employment office or branch thereof, operated by the Territory of Hawaii, or maintained as a part of a state-controlled system of public employment offices.

(m) 'Fund' means the unemployment compensation fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(n) 'State' includes, in addition to the states of the United States of America, Alaska, Hawaii and the District of Columbia.

(o) 'Unemployment'. An individual shall be deemed 'unemployed' in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The board shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the board deems necessary.

(p) 'Wages' means all remuneration, including commissions and bonuses, for employment including the cash value of all remuneration payable in any medium other than cash.

(q) 'Week' means such period of seven consecutive days, as the board may by regulation prescribe. The board may by regulation prescribe that a week shall be deemed to be 'in', 'within', or 'during' that benefit year which includes the greater part of such week.

(r) 'Insured work' means employment for employers.

(s) 'Commissioner' or 'tax commissioner' means the tax commissioner of the Territory of Hawaii and his duly constituted subordinates.

"BENEFITS

"Section 3. (a) Benefits payable. Benefits shall become payable under this Act for unemployment occurring on and after January 1, 1939: Provided, that wages earned for services defined in section 2 (k) (6) (H) of this Act, irrespective of when performed, shall not be included for purposes of determining eligibility, under section 4 (e) or weekly benefit amount, under subsection (c) of this section, for

the purposes of any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable under subsection (e) of this section on the basis of such wages.

(b) Payment of benefits. Benefits shall be paid in accordance with such regulations as the board may prescribe through employment offices or such other agencies as the board, with the approval of the social security board, may by regulation prescribe.

(c) Weekly benefit amount. An individual's 'weekly benefit amount' shall be an amount equal to one-twenty-fifth of his total wages for insured work during that quarter of his base period in which such total wages were highest, except that if such amount is more than fifteen dollars the weekly benefit amount shall be deemed to be fifteen dollars, or if less than five dollars shall be deemed to be five dollars, and if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00.

(d) Weekly benefit for unemployment. Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of three dollars. Such benefit, if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00.

(e) Duration of benefits. Any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (1) sixteen times his weekly benefit amount and (2) one-third of the wages earned by him for insured work during his base period; provided that such total amount of benefits, if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00. For the purposes of this section, wages shall be counted as 'wages for insured work' for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of section 2 (j) or section 8 (c) with respect to becoming an employer.

(f) Part-time worker. (1) As used in this subsection the term 'part-time worker' means an individual whose normal work is in an occupation in which the board finds that his services are not required for the customary scheduled full-time hours prevailing in the establishment in which he is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he is employed.

(2) The board shall prescribe fair and reasonable general rules applicable to part-time workers for determining their full-time weekly wage, their weekly benefit amount and the period for earning, and the amount of the total wages for employment by employers required to qualify such workers for benefits. Such rules shall, with respect to such workers, supersede any inconsistent provisions of this Act, but, so far as practicable shall secure results reasonably similar to those provided in the analogous provisions of this Act.

(g) Seasonal workers. (1) Any industry in which because of the seasonal nature thereof it is customary to carry on any significant

portion of the operations thereof only during a regularly recurring period or periods of less than an aggregate of twenty-six weeks in a year may be deemed a 'seasonal industry'; provided that for this purpose an industry shall not be deemed a 'seasonal industry' unless the members thereof exhibit a reasonable degree of similarity as to functions discharged, types of product produced or service rendered, and period of operations; and provided further, that for this purpose no industry shall be deemed a 'seasonal industry' unless it had in employment in some payroll period of some month of the year preceding the determination of its 'seasonal period' a number of individuals equal to or greater than a minimum number which shall be prescribed for this purpose by the board in a general rule and shall be used in uniform manner in all determinations of seasonal industries; and provided further, that none of the provisions of this subsection (g) shall apply as to such industry until the board shall have determined the seasonal period thereof in accordance with general rules prescribed for that purpose by the board.

(2) A 'seasonal worker' shall be deemed to be any individual who during his base period has earned wages in employment by an employer in a seasonal industry.

(3) The board shall prescribe general rules for the determination of the seasonal periods of seasonal industries. The board shall prescribe general rules with respect to the use for benefit purposes of wage credits based upon wages earned by seasonal workers in such seasonal periods.

"BENEFIT ELIGIBILITY CONDITIONS

"Section 4. **Qualification for benefits.** An unemployed individual shall be eligible to receive benefits with respect to any week only if the board finds that—

(a) He has made a claim for benefits with respect to such week in accordance with such regulations as the board may prescribe.

(b) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the board may prescribe, except that the board may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this Act; provided that no such regulation shall conflict with section 3 (b) of this Act.

(c) He is able to work and is available for work.

(d) He has been unemployed for a waiting period of two weeks. Such weeks of unemployment need not be consecutive. No week shall be counted as a week of unemployment for the purposes of this subsection: —

(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment, and provided further, that the week or the two consecutive weeks immediately preceding a benefit year, if part of one uninterrupted period of unemployment which continues into such benefit year, shall be deemed (for the purposes of this

subsection only) to be within such benefit year as well as within the preceding benefit year.

(2) If benefits have been paid with respect thereto.

(3) Unless the individual was eligible for benefits with respect thereto as provided in sections 4 and 5 of this Act, except for the requirements of this subsection and of subsection (e) of section 5.

(e) He has during his base period earned wages for insured work equal to not less than twenty-four times his weekly benefit amount. For the purposes of this subsection wages shall be counted as 'wages for insured work' for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of section 2 (j) or section 8 (c) with respect to becoming an employer.

"DISQUALIFICATION FOR BENEFITS

"Section 5. An individual shall not be eligible for benefits:

(a) For any week in which the individual is unemployed as a result of having voluntarily left his most recent work without good cause, if so found by an authorized representative of the board;

(b) For any week in which the individual is unemployed as a result of having been discharged from his most recent work for misconduct, if so found by an authorized representative of the board;

(c) If without good cause, he has refused to accept suitable employment when offered to him, or failed to apply for suitable employment when notified by the district employment office until declared eligible by the board;

(1) 'Suitable employment' means work or self-employment which the board finds suitable considering the degree of risk involved to the employee's health, safety and morals, his physical fitness and prior training and experience, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence;

(2) Notwithstanding any other provisions of this Act, no work shall be deemed to be suitable employment, and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work, under any of the following conditions:

(A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(C) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(d) An individual shall not be denied benefits for total or partial unemployment which is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other

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premises at which he is or was last employed if he is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work, and does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute. If in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this section, be deemed to be a separate factory, establishment or other premises;

(e) For any week with respect to which or a part of which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply;

(f) For any week with respect to which the individual is receiving or has received remuneration in the form of:

(1) Wages in lieu of notice, or any payment by way of compensation for the loss of wages;

(2) Compensation for temporary partial disability under the Workmen's Compensation Law of any state or under a similar law of the United States, or

(3) Old Age Benefits under Title II of the Social Security Act, as amended; provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week if otherwise eligible, benefits reduced by the amount of such remuneration;

(g) If he attended a school, college or university during the last preceding session thereof, and has been employed by his employer only during the customary vacation period of such institution;

(h) If he has not been a resident of this Territory for one year immediately preceding the beginning of unemployment. Except that such disqualification may be avoided whenever reciprocal arrangements are in effect with the proper authorities of other unemployment compensation systems."

"CLAIMS FOR BENEFITS

"Section 6. (a) Filing. Claims for benefits shall be made in accordance with such regulations as the board may prescribe. Each employer shall post and maintain in places readily accessible to individuals in his service printed statements concerning such regulations or such other matters, as the board may by regulation prescribe. Each employer shall supply such individuals copies of such printed statements or materials relating to claims for benefits as the board may by regulation prescribe. Such printed statements shall be supplied by the board to each employer without cost to him.

(b) Initial determination. A representative designated by the board shall take the claim. An initial determination thereon shall be made promptly and shall include a determination with respect to

whether or not benefits are payable, the week with respect to which benefits shall commence, the weekly benefit amount payable, and the maximum duration of benefits. The board, or such representative as it may designate for such purpose, shall, on the basis of the evidence so submitted and such additional evidence as it or he may require, make an initial determination with respect thereto. An initial determination may for good cause be reconsidered. The claimant and any other parties to the determination shall be promptly notified of the initial determination (or of any amended initial determination) and the reasons therefor. Benefits shall be denied, or if the claimant is otherwise eligible, promptly paid, in accordance with the initial determination, except as hereinafter otherwise provided. The claimant or any party to the determination may file an appeal from such initial determination within seven days after notification thereof, or after the date such notification was mailed to his last known address. If upon such initial determination, benefits are allowed, but the record of the case indicates that a disqualification has been alleged or may exist, benefits shall not be paid prior to the expiration of the period for appeal as hereinbefore provided. If an appeal is duly filed with respect to a matter other than the weekly benefit amount or maximum duration of benefits payable, benefits with respect to the period prior to the final decision of the board shall be paid only after such decision, provided, that if a county commission affirms an initial determination allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, and provided further, that if benefits are paid pursuant to a decision which is finally reversed in subsequent proceedings with respect thereto, no employer's account shall be charged with benefits so paid. If subsequent to such initial determination benefits with respect to any week for which a claim has been filed are denied for reasons other than matters included in the initial determination, the claimant shall be promptly notified of the denial and the reasons therefor and may appeal therefrom in accordance with the procedure herein described for appeals from initial determinations.

(c) Appeals. A county commission, after affording the parties reasonable opportunity for fair hearing, shall, unless such appeal is withdrawn, affirm, modify or reverse the findings of fact and initial determination. The parties shall be duly notified of such commission's decision, together with its reasons therefor, which shall be deemed to be the final decision of the territorial board, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

(d) No member of the board or a county commission shall participate in any hearing before the board or a county commission in any case in which he is an interested party.

(e) Board. The board may on its own motion, affirm, modify, or set aside any decision of a county commission on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board shall permit such further appeal by any of the parties to a decision of a county commission or by the examiner whose decision has been overruled or modified by a county commission. The board may remove to itself or transfer to another county commission the proceedings on any claim pending before a county commission. Any proceeding so re-

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moved to the board shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board shall promptly notify the parties to any proceedings of its findings and decision.

(f) Procedure. The manner in which appealed claims shall be presented and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the board for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing upon an appealed claim shall be recorded, but need not be transcribed unless the claim is further appealed.

(g) Witness fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the board. Such fees shall be deemed a part of the expense of administering this Act.

(h) Appeal to courts. Any decision of the board in the absence of an appeal therefrom as herein provided shall become final ten days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his administrative remedies as provided by this Act. The board shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney employed by the board and designated by it for that purpose, or at the board's request by the attorney general.

(i) Court review. Within ten days after the decision of the board has become final, any party to the proceedings who claims to be aggrieved by the decision may secure judicial review thereof by commencing an action in the circuit court of the circuit in which the appellant resides against the board for the review of such decision, in which action any other party to the proceeding before the board shall be made a defendant. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon the board, or upon such person as the board may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the board shall forthwith mail one such copy to each such defendant. With its answer, the board shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter, together with the board's findings of fact and decision therein. The board may also, in its discretion, certify to such court questions of law involved in any decision. Such actions, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workmen's compensation law of this Territory. An appeal may be taken from the decision of the circuit court to the supreme court in the same manner, but not inconsistent with the provisions of this Act, as is provided in civil cases. It shall not be necessary, in any judicial proceedings under this section, to enter exceptions to the rulings of the board and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the board shall enter an order in accordance with such determination. A petition

for judicial review shall not act as a supersedeas or stay unless the board shall so order.

"CONTRIBUTIONS

"Section 7. (a) Payment. (1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment occurring during such calendar year. Such contributions shall become due and be paid by each employer to the board for the fund in accordance with such regulations as the board may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) Rate of contribution. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) 1.8 per centum with respect to employment during the calendar year 1937;

(2) With respect to employment after December 31, 1937, 2.7 per centum, except as otherwise prescribed in subsection (c) of this section.

(c) Future rates based on benefit experience. (1) The board shall maintain a separate account for each employer, and shall credit his account with all the contributions paid on his own behalf. Nothing in this Act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged, in the amount hereinafter provided, against all employers from whom the individual earned wages for employment during his base period. The amount of such benefits chargeable against an employer shall bear the same ratio to the wages earned by the individual for employment by such employer during his base period, as the total amount of such benefits chargeable against all employers bears to the total wages earned by such individual for employment by all such employers during his base period. The maximum amount so charged against the account of an employer shall not exceed one-third of the wages payable to such individual by each such employer for employment which occurs on and after the first day of such individual's base period, and shall not be more than one hundred and thirty dollars per completed calendar quarter or portion thereof, which occurs within such individual's base period, but nothing in this section shall be construed to limit benefits payable pursuant to section 3 of this Act. The board shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment at the same time.

(2) The board may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) The board shall, for the six months' period beginning July 1, 1942 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The board shall determine the contribution rate of each employer in accordance with the following requirements:

(A) Each employer's rate shall be 2.7 per centum, except as otherwise provided in the following provisions.

(B) Each employer's rate for the six months' period beginning July 1, 1942, and for each calendar year thereafter, shall be determined upon the basis of his record as of a date, hereinafter referred to as the computation date, which for the six months' period beginning July 1, 1942, shall be January 1, 1942, and for the year 1943, and for each calendar year thereafter, shall be July 1 of the preceding year. Each employer's rate shall be 2.7 per centum unless, throughout the three years preceding the most recent computation date, he was an employer subject to this Act and benefits were payable to any individual in his employ who became unemployed and eligible.

(C) If, as of such computation date, the total of all his contributions paid on his own behalf for all past periods exceeded the total benefits charged to his account for all such periods, his contribution rate shall be:—

(1) 1.8 per centum, if such excess equals or exceeds 4 but is less than 7 per centum of his average annual payroll;

(2) .9 per centum, if such excess equals or exceeds 7 but is less than 10 per centum of his average annual payroll;

(3) Waived and no contributions payable if such excess equals or exceeds 10 per centum of his average annual payroll;

(D) If, as of any computation date, his total contributions paid on his own behalf for all past periods or for the past sixty preceding consecutive months, whichever period is more advantageous to such employer for the purpose of this paragraph, were less than the total benefits charged against his account during the same period, his rate shall be 4.0 per centum.

(E) No employer's rate for the six months' period beginning July 1, 1942, or for any calendar year thereafter shall be less than 2.7 per centum, unless the total assets of the fund as of the immediately preceding computation date, excluding contributions due but not then paid, exceeded the total benefits paid from the fund within the period of twelve consecutive months preceding such computation date, and no employer's rate shall be less than 1.8 per centum unless such assets of the fund as of such computation date were at least twice the total benefits paid from the fund within such period of twelve consecutive months.

(F) As used in this section, the term 'annual payroll' means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a period of twelve consecutive months, and the term 'average annual payroll' means the average of the annual payrolls of an employer for a period consisting of the three

or five consecutive periods of twelve months each immediately preceding the most recent computation date, whichever is the higher.

(d) **Imposition of contributions.** Each employer subject to this Act on or before the last day of each month shall make a full, true and correct return with respect to the payment of wages for employment subject to this Act during the preceding month and there is hereby levied, and shall be paid to and collected by the tax commissioner, such contributions as are herein provided.

The tax commissioner, in his discretion, upon application by an employer, may permit an employer to make returns and payments of contributions on a calendar quarterly basis, and such returns and payments shall be made on or before the last day of the month following each quarter.

(e) **Collection of contributions by assumpsit or distressment, concurrent jurisdiction of district magistrates.** Any contribution which is delinquent under this Act may be collected:

(1) By action in the name of the commissioner or any collector or deputy collector of taxes, in assumpsit, with or without attachment of the real or personal property of the employer, and it shall be unnecessary, in order to secure the issuance of the writ of attachment, for the officer bringing such action to file any bond, or to file any affidavit if a verified complaint is filed, with a prayer for such writ; in such actions the several district courts shall have concurrent jurisdiction with the circuit courts, irrespective of the amount claimed.

(2) The tax commissioner may distrain upon any goods, chattels or intangibles represented by negotiable evidence of indebtedness of any employer delinquent under this Act for the amount of all contributions, interest and penalties accrued and unpaid hereunder. The commissioner may require the assistance of the sheriff of any county in which such sheriff is an officer. All contributions, interest and penalties so collected shall be reported within ten days after collection to the tax commissioner, who shall prescribe by general regulation the manner of remittance of such funds and of allowing the collecting officer the compensation due him under this section. A sheriff collecting contributions in the manner provided in this paragraph, shall be entitled to compensation in the amount of all penalties collected, not including interest, but in no case shall such compensation exceed twenty-five dollars.

(f) **Penalty for delinquency.** A penalty of ten per centum shall be added to the amount of all delinquent contributions whether the delinquency is caused by failure to pay the contributions or to file return, or because of false or fraudulent return, which penalty shall become a part of the contribution and shall be collected as such. Any delinquent contribution and penalty remaining unpaid fifteen days after the date of delinquency shall bear interest from the date of delinquency at the rate of two-thirds of one per centum for each month or fraction of a month until paid, which interest shall become a part of the contributions and shall be collected as such.

(g) **Appeal; correction of assessment or contribution.** Any person aggrieved by any assessment of the contribution and/or tax imposed by this Act for any period, having paid said contribution and/or tax, may appeal from said assessment in the manner and within the

time and upon giving notice in writing stating his grounds of appeal to the person specified in section 2045 of the Revised Laws of Hawaii 1935. In the application of said section 2045 the amount of alleged taxable wages in dispute shall be used in lieu of the amount of alleged taxable income in dispute. Any refund due as a result of the final determination of such appeal shall be paid or credited in the same manner as other refunds or adjustments under this Act.

"PERIOD, ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE

"Section 8. (a) Except as provided in subsection (c) of this section, any employing unit which is or becomes an employer subject to this Act within any calendar year shall be deemed to be an employer during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this Act only as of the first day of January of any calendar year, only if it files with the board, prior to the 31st day of January of such year, a written application for termination of coverage, and the board finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this Act. For the purposes of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of section 2 (j) shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to this Act, which files with the board its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the board, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such 1st day of January, it has filed with the board a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this Act are performed, may file with the board a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this Act for not less than two calendar years. Upon the written approval of such election by the board, such services shall be deemed to constitute employment subject to this Act from and after the date stated in such approval. Such services shall cease to be deemed to constitute employment subject to this Act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January such employing unit has filed with the board a written notice to that effect.

"UNEMPLOYMENT COMPENSATION FUND

"Section 9. (a) There is hereby established in the treasury of the Territory as a special fund, separate and apart from all public monies or funds of the Territory, an unemployment compensation

fund, which shall be administered by the unemployment compensation board exclusively for the purposes of this Act. All monies in the fund shall be mingled and undivided. This fund shall consist of:

- (1) All contributions collected under this Act, together with any interest thereon collected pursuant to section 7 of this Act;
- (2) All fines and penalties collected pursuant to the provisions of this Act;
- (3) Interest earned upon any monies in the fund;
- (4) Any property or securities acquired through the investment of monies belonging to the fund; and
- (5) All earnings of such property or securities.

(b) The treasurer of the Territory is designated treasurer and custodian of the fund. All monies payable to the fund shall be forwarded to the treasurer of the Territory as provided in the laws governing the collection and deposit of public funds. Refunds payable pursuant to subsection (e) of this section may be paid from the fund upon warrants drawn on the treasurer by the auditor supported by vouchers approved by the board, and all other remaining monies in the fund exclusive of monies requisitioned from the unemployment trust fund shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of the Territory in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended.

(c) The treasurer shall from time to time, with the approval of the board, in accordance with regulations prescribed by the auditor, requisition from the unemployment trust fund the amounts, not exceeding the amounts standing to the Territory's account therein, necessary for the payment of benefits payable under the provisions of this Act for a reasonable future period and such monies when received shall be deposited with the treasurer of the Territory to the credit of the proper fund. Such monies shall be used exclusively for benefit payments and shall be disbursed on warrants drawn on the treasurer by the auditor supported by vouchers approved by the board. Any balance of monies requisitioned from the unemployment trust fund which remains unclaimed or unpaid after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the board, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of the Territory's account in the unemployment trust fund, as provided in subsection (b) of this section.

(d) The provisions of subsections (a), (b) and (c) to the extent that they relate to the unemployment trust fund, shall be operated only so long as such unemployment trust fund continues to exist, and so long as the secretary of the treasury of the United States of America continues to maintain for the Territory a separate account of all funds deposited therein by the Territory for benefit purposes, together with the Territory's proportionate share of the earnings of such unemployment trust fund, from which no other state or territory is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate account is no longer

maintained, all monies, properties, or securities therein, to the credit of the unemployment compensation fund of the Territory, are returnable to the treasurer of the Territory of Hawaii who shall hold, invest, transfer, sell, deposit and release such monies, properties, or securities in a manner approved by the board in accordance with the provisions of this Act, provided, that such monies shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States of America, or other securities which may be acquired under the sinking fund laws of the Territory, provided, further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the board.

(e) Refunds. If not later than three years after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and if the board shall determine that such contributions or interest or any portion thereof were erroneously collected, the board shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the board shall refund said amount without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the board's own initiative.

(f) Priorities under legal dissolutions or distributions. In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this Territory, including any receivership, assignment for benefit creditors, adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than \$250 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64 (b) of that Act (U.S.C., Title II, sec. 104 (b)), as amended.

(g) Notwithstanding any requirements of the foregoing subsections of this section, the board shall, prior to July 1, 1939, authorize and direct the secretary of the treasury of the United States to transfer from the account of the Territory of Hawaii in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to section 10 of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to January 1, 1940, authorize and direct the secretary of the treasury of the United States to transfer from the account of the Territory of Hawaii in said unemployment trust fund to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liquidating amount. The Social Security Board shall determine both such

amounts after consultation with the board and the Railroad Retirement Board. The preliminary amount shall consist of that proportion of the balance in the unemployment compensation fund as of June 30, 1939, as the total amount of contributions collected from 'employers' (as the term 'employer' is defined in section 1 (a) of the Railroad Unemployment Insurance Act), and credited to the unemployment compensation fund bears to all contributions theretofore collected under this Act and credited to the unemployment compensation fund. The liquidating amount shall consist of the total amount of contributions collected from 'employers' (as the term 'employer' is defined in section 1 (a) of the Railroad Unemployment Insurance Act), pursuant to the provisions of this Act during the period July 1, 1939, to December 31, 1939, inclusive.

"ADMINISTRATION

"Section 10. (a) County unemployment compensation commission. In each county in the Territory of Hawaii there is hereby created a county unemployment compensation commission.

The commission shall be composed of three members in each of the counties who shall be appointed by the governor in the manner prescribed in section 80 of the Organic Act, and the governor shall designate one member to serve as chairman of the commission.

The members of the commission shall serve as designated by the governor at the time of appointment, one for a term of two years, one for a term of three years, and one for a term of four years. At the expiration of such initial terms, appointments shall be made for a term of four years in each case. Any appointment to a vacancy shall be for the unexpired term in question. The commission shall recommend for appointment by the board such officers and clerks as may be necessary in accordance with regulations prescribed by the board and they shall hold office in accordance with such regulations.

The members of the commission shall receive no compensation for their services as members of the commission, but they shall be entitled to the actual and necessary expenses incurred by them in discharging their official duties under this Act.

(b) Unemployment compensation board. The chairman of the respective county unemployment compensation commissions are hereby designated as members of the territorial unemployment compensation board. In addition to the above four ex-officio members, the governor shall appoint in the manner prescribed in section 80 of the Organic Act three additional members from the Territory at large, one of whom shall be designated as chairman of the board. One of the members so appointed shall serve for a term of two years, one for a term of three years, and one for a term of four years. At the expiration of such initial terms, appointments shall be made for a term of four years in each case. Any appointments to a vacancy shall be for the unexpired term in question.

The members of the board shall receive no compensation for their services as members of the board, but they shall be entitled to the actual and necessary expenses incurred by them in discharging their official duties under this Act.

(c) Eligibility for membership. No person shall be eligible for membership on the territorial unemployment compensation board or

the county unemployment compensation commissions who occupies any elective position under the territorial or county government, and no member shall during his term of office serve as an officer or committee member of any political party organization, or present himself as a candidate of any political party for election to any public office.

(d) Duties and powers of territorial board. It shall be the duty of the board to administer this Act, and it shall have the power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this Act, which the board shall prescribe, and such rules and regulations shall be complied with and be binding upon the county commissions. The board shall determine its own organization and methods of procedure in accordance with the provisions of this Act.

General and special rules may be adopted, amended, or rescinded by the board only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the secretary of Hawaii and one publication in one or more newspapers of general circulation in the Territory. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the board and shall become effective in the manner and at the time prescribed by the board.

The board shall cause to be printed for distribution to the public the text of this Act, the board's regulations and general rules, and any other material the board deems relevant and suitable.

The board is authorized to appoint, fix the compensation subject to the approval of the governor, and prescribe the duties and powers of its officers and other employees as may be necessary, and they shall hold office in accordance with regulations prescribed by the board.

The board shall establish minimum standards of training, experience and ability for personnel employed by the board and commissions and provide for the maintenance and enforcement of such personnel standards. The board shall act as appeal tribunal from any decision of a county commission.

(e) Duties and powers of county commissions. Subject to the administrative supervision of the board, the county commissions shall make such rules and regulations, and recommend for appointment by the board such persons as may be necessary for the administration of this Act in their respective counties. The county commission shall serve as an appeal tribunal to conduct hearings as provided in section 6, and shall conform to all rules and regulations and perform all other duties prescribed by the board.

(f) Investigation of unemployment hazard. The board shall investigate and report upon the degree of unemployment hazard in various industries and occupations and shall recommend to employers

in industries or occupations showing an unusual unemployment hazard means for stabilizing employment. It shall also, if necessary, recommend to the legislature a higher rate of tax for any classification of industries or occupations in which unemployment is excessive.

(g) Records and reports. Each employing unit shall keep true and accurate work records, containing such information as the board may prescribe. Such records shall be open to inspection and be subject to being copied by the board or its duly authorized representatives at any reasonable time and as often as may be necessary. The board may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the board deems necessary for the effective administration of this Act. Information thus obtained, or obtained from any individual pursuant to the administration of this Act, except to the extent necessary for the proper administration of this Act, shall be held confidential and shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity, but any claimant, or his legal representative, at a hearing before a county commission or the board shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

(h) Oaths and subpoenas. The board, and any representative of the board duly authorized by it to conduct any inquiry, investigation, or hearing hereunder, shall have power to administer oaths and take testimony under oath relating to the matter of inquiry or investigation. At any hearing ordered by the board, the board, or its representative authorized to conduct such hearing, may subpoena witnesses and require the production of books, papers, documents and records pertinent to such inquiry. If any person shall disobey such process, or, having appeared in obedience thereto, shall refuse to answer pertinent questions put to him by the board, or its authorized agent, or to produce any books, papers, documents or records pursuant thereto, the board or such agent may apply to the circuit court of the circuit wherein the inquiry or investigation is being conducted, or to any judge of said court, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such questions or to produce such books, papers, documents or records, and upon his refusal so to do commit such person to jail until he shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of commitment by any person, the board or such agent may proceed in all respects as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the board or under its authority and witnesses attending hearings conducted by it hereunder shall receive fees and compensation at rates specified by the board, from the unemployment compensation administration fund.

(i) Protection against self-incrimination. No person shall be excused from attending and testifying, or from producing books, papers, correspondence, memoranda and other records, before a commission or the board or any duly authorized representative of any of them, on the grounds that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transac-

tion, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(j) Territory-Federal cooperation. In the administration of this Act, the board shall cooperate, to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this Territory under Title III of the Social Security Act for the purpose of assisting in the administration of this Act. The board shall also make available upon request, to any agency of the United States government charged with the administration of public works or assistance through public employment, the following information relating to recipients of benefits:

- (a) The recipient's name;
- (b) The recipient's address;
- (c) The ordinary occupation and employment status of each such recipient of benefits;
- (d) A statement of such recipient's rights to further benefits under this Act; and
- (e) Such other information as shall be required by any such United States government agency.

The board may make the records relating to the administration of this Act available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes.

The board may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

(k) Change of rates. Whenever the board believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

"EMPLOYMENT SERVICE

"Section 11. (a) Territory of Hawaii employment service. The board shall establish a public employment service and shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled 'An Act to provide for the establishment of a national employment system and for cooperation

with the states in the promotion of such system, and for other purposes', approved June 6, 1933, (48 Stat. 113; U.S.C. title 29, sec. 49 (c)), as amended. The board shall cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and do and perform all things necessary to secure to the Territory the benefits of said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by the Territory, in conformity with section 4 of said Act, and the Territory will observe and comply with the requirements thereof. The unemployment compensation board is hereby designated and constituted the agency of the Territory for the purposes of said Act.

The board shall appoint the director, other officers, and employees of the Territory of Hawaii employment service. Such appointments shall be made in accordance with regulations prescribed by the director of the United States employment service.

The board may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance, and use of free employment service facilities.

(b) Financing employment service funds. All monies received by the Territory under the said Act of Congress, shall be paid into the territorial treasury and said monies together with monies appropriated by the Territory for public employment offices are hereby made available to the unemployment compensation board to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, the board is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of the Territory of Hawaii, or with any private, non-profit organization, and as a part of any such agreement the board may accept monies, services, or quarters as a contribution to the employment service account.

"UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

"Section 12. (a) Special fund. There is hereby created in the treasury of the Territory of Hawaii a special fund to be known as the unemployment compensation administration fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the board. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by the Territory of Hawaii, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board, the Railroad Retirement Board, and the United States Employment Service, or from any other source, for such purpose. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board shall be paid into this fund and the employment service account thereof, on the same basis as expenditures are made for such services or facilities from such fund and account. All moneys in this fund shall be disbursed upon warrants drawn by the auditor of the Territory supported by vouchers approved by the board. Any

balances in this fund shall not lapse at any time, but shall be continuously available to the board for expenditure consistent with this Act.

The territorial auditor is hereby authorized to prescribe and maintain such methods of accounting, not inconsistent with any requirement or regulation of the federal government, or any agency thereof, including the Social Security Board and the United States Employment Service, designated for the purpose as he may deem necessary properly to carry out the provisions of this Act.

(b) Employment service account. A special 'employment service account' shall be maintained as a part of the unemployment compensation administration fund for the purpose of maintaining the public employment offices established pursuant to section 11 of this Act and for the purpose of cooperating with the United States Employment Service. Moneys appropriated by the legislature for maintaining public employment offices, shall be paid into this account and in addition, there shall be paid into such account the moneys designated in section 11 of this Act, and such moneys as are apportioned for the purposes of this account from any moneys received by this Territory under Title III of the Social Security Act, as amended.

"PROTECTION OF RIGHTS AND BENEFITS"

"Section 13. (a) Waiver of rights void. Any agreement by an individual to waive, release or commute his rights to benefits or any other rights under this Act shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this Act, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by an individual in his employ. Any employer or officer or agent of an employer who violates any provision of this section shall, for each offense, be fined not less than \$100.00 nor more than \$1,000 or be imprisoned for not more than six months or both.

(b) Limitation of fees. No individual shall be charged fees of any kind in any proceeding under this Act by the board or commission or its representatives, or by any court or any officer thereof, and no costs shall be awarded by a commission or the board on an appeal. Any individual claiming benefits in any proceeding before a commission or the board may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the commission or board and it shall in no case exceed ten per cent of the total amount of benefits received as a result of such appeal. Any person who violates any provision of this section shall, for each such offense, be fined not less than \$50.00 nor more than \$500.00 or imprisoned for not more than six months or both.

(c) No assignment of benefits, exemptions. No assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, garnishment, or any other remedy whatsoever provided for the collection of debt. No waiver of any exemption provided for in this section shall be valid.

"GENERAL PROVISIONS"

"Section 14. (a) Felony. It shall be a felony for any member of a commission or the board or any officer or employee of the unemployment compensation board or commission to divulge any information secured by him in the course of such employment in respect to the transactions, property or business, or mechanical, chemical or other industrial processes of any employer, to any person outside the employ of and membership of the board or a commission, and upon conviction thereof shall be fined not more than \$1,000 or be imprisoned for not more than ten years or both.

(b) Misdemeanor. It shall be a misdemeanor:

1. Wilfully to make a false statement or representation to obtain any benefit or payment under the provisions of this Act, whether for the maker or for any other person, or for the purpose of lowering any tax required of the maker or any other person;

2. Wilfully and unlawfully to fail to appear or to testify or to produce books, papers and records, required at any hearing under this Act;

3. On the part of an employing unit, wilfully and unlawfully to fail or neglect to open his employment record to the inspection of the board or its authorized representative at any reasonable time during business hours;

4. On the part of an employing unit, wilfully and unlawfully to fail or neglect to make such statement of the records of individuals in his employ as the board or its authorized representative shall require when necessary for the enforcement of this Act;

5. On the part of any person wilfully to violate any provision of this Act or any order, rule or regulation thereunder, violation of which is made unlawful or the observance of which is required under the terms of this Act and for which a penalty is neither prescribed herein nor provided by any other applicable statute.

Upon conviction thereof any person shall be fined not more than \$500.00, or be imprisoned for not more than one year, or both.

"RECOVERY OF BENEFITS"

"Section 15. Any person who, by reason of the non-disclosure or misrepresentation, by him or by another, of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the board, either be liable to have such sum deducted from any future benefits payable to him under this Act or shall be liable to repay to the board for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in section 4429, Revised Laws of Hawaii 1935.

"REPRESENTATION IN COURT"

"Section 16. (a) In any civil action to enforce the provisions of this Act the board and the Territory of Hawaii may be represented

by the attorney general or by any qualified attorney who is employed by the board for such purpose.

(b) All criminal actions for violation of any provision of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the public prosecutor or county attorney of any county in which the employer has a place of business or the violator resides.

"RECIPROCAL ARRANGEMENTS"

"Section 17. The board is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby individuals performing services in the Territory and other states for a single employing unit under circumstances not specifically provided for in section 2 (k) of this Act, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within the Territory or within one of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the board finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

"Section 18. **Separability of provisions.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision, to other persons or circumstances shall not be affected thereby.

"Section 19. **Non-liability of Territory.** Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act, and to the extent that monies are available therefor to the credit of the unemployment compensation fund and the territorial board or county commission shall not be liable for any amount in excess of such sums.

"Section 20. **Saving clause.** The legislature reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this Act at any time.

"Section 21. **Amendment of Social Security Act operates as amendment of the employer provisions of this Act.** If the Congress of the United States, by amendatory legislation, extends the application of the Social Security Act of August 14, 1935 as amended, to include employers who are not now embraced under or covered by the said Act of Congress, then and in that event, the provisions of this Act shall be deemed amended to conform with the changes as enacted by Congress and approved by the President of the United States with respect to the scope and application of the said Act of Congress of August 14, 1935, as amended, and, upon any such change being made, the governor, when advised of the approval thereof by the President, shall immediately by official proclamation declare the germane provision or provisions of this Act amended in conformity with the change or changes as so made in the Social Security Act and such amendment or amend-

ments shall be operative from the date of the governor's proclamation.

In the event that this section should be declared unconstitutional or invalid by a court of last resort, such adjudication shall not in any wise impair, affect or invalidate any other section, part or provision of this Act, and the remainder of the Act shall be given the same effect as if this section had never been enacted.

"Section 22. Effectiveness if Federal Act inoperative. If the tax imposed by Title IX of the Federal Social Security Act, or any amendments thereto, or any other federal tax against which contributions under this Act may be credited shall, for any cause, become inoperative, thereby precluding the contributions required under this Act from being credited against such federal tax, then this Act by virtue of that fact shall be suspended, and any unobligated funds in the unemployment compensation fund and returned to the Territory by the United States treasurer because such federal Social Security Act is inoperative shall after six months be refunded to the employers under this Act proportionately to the amounts computed by subtracting from the payments made by each such employer the total amount of benefits chargeable to his payments.

If at any time this Act is amended and the effect of such amendment or any part thereof is to legally impair or prevent the application of contributions and/or taxes levied and paid under the provisions of this Act as a credit against the taxes levied under the Act of Congress approved August 14, 1935, known as the Social Security Act, or any other law against which contributions and/or taxes may be credited, as it may be amended from time to time, then such disabling amendment or part thereof shall be suspended for the period or periods such disability or prohibition exists, but such amendment or part thereof so suspended shall become operative and in full force and effect when such disability or prohibition ceases to legally affect such application and credit.

If Congress shall amend section 910 (a) of the federal Social Security Act so that a taxpayer shall be allowed the additional credit under section 909 with respect to his contribution rate under a state or territorial law being lower, for any taxable year, than that of another employer subject to such law, even though such lower rate, with respect to contributions to a pooled fund, is based on a period of less than three years of compensation experience, or if an agency of the United States, thereunto duly authorized, shall make a determination to the same effect, then the provisions of said amendment shall be deemed to amend section 7 (c) of this Act so as to accelerate the effective dates relating to the reduction of rates of contribution to the earliest dates permissible under said amendment, any provision of this Act to the contrary notwithstanding."

Section 2. Transition provisions. (a) As used in this section, unless the context clearly requires otherwise, (1) "old law" means Act 243, Session Laws of Hawaii 1937.

(2) "New law" means said Act 243 as amended by section 1 of this Act.

(3) "Effective date" means the date upon which the new law becomes effective.

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(4) "Continuous period of compensable unemployment" means a period of unemployment beginning prior to and continuing up to and after the time of the effective date in the case of an individual who, prior to the effective date, has filed a claim for benefits for a week or weeks of unemployment in such period, provided that the individual has satisfied the requirements of sections 30 and 35 of the old law and has not exhausted his rights to benefits pursuant to section 39 of the old law prior to the effective date.

(b) Except as otherwise specifically provided in subsection (c) of this section, the new law shall be exclusively applicable with respect to any individual on and after the effective date and after such date no provision of the old law shall be construed to limit or extend the rights of any individual as fixed by the new law.

(c) With respect to any individual who is unemployed during a continuous period of compensable unemployment (as defined in subsection (a) of this section) the following provisions of the old law shall be exclusively applicable, to the extent herein specified, until the expiration of such continuous period of compensable unemployment: Sections 30 and 35 to the extent that they require the individual to be employed in the Territory for 13 weeks in the 12 months immediately preceding unemployment, section 33, section 39, and section 40 to the extent that it prescribes the method of determining an individual's normal average weekly wage and the benefits to which such individual is entitled with respect to a week of total unemployment; provided, however, that notwithstanding any provision of the old law to the contrary, the weekly benefit amount and the maximum total benefits payable with respect to such continuous period of compensable unemployment shall, if not a multiple of one dollar, be computed to the next higher multiple of one dollar with respect to any weeks of unemployment occurring after the effective date. After the expiration of the continuous period of compensable unemployment, sections 30, 33, 35, 39 and 40 of the old law shall not be applicable with respect to such individual, but all the provisions of the new law shall be applicable with respect to him.

Section 3. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **S.B. 339, ACT 219.**

[D-186] An Act to Amend Section 52 of Act 243, Session Laws of Hawaii 1937, Relating to the Time of Making Return and Paying Unemployment Compensation Tax.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 52 of Act 243 (Series D-167) of the Session Laws of Hawaii 1937, is hereby amended by changing the word "twentieth" in the first sentence of the paragraph entitled "Imposition of tax" to the word "last" and also by changing the word "twentieth" in the second sentence of the same Act and paragraph to the word "last".

Section 2. This Act shall become effective upon its approval.

(Approved April 14, 1939.) **S.B. 138, ACT. 55.**

CHAPTER 262. RADIO INTERFERENCE, CONTROL AND REGULATION OF.

[D-187] An Act to Amend Chapter 262 of the Revised Laws of Hawaii 1935, Relating to the Control and Regulation of Radio Interference, Repealing the Radio Tax and Otherwise Providing for Funds for the Radio Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 262 of the Revised Laws of Hawaii 1935, as amended by Act 201 (Series D-167) of the Session Laws of Hawaii 1935, is hereby amended

(a) by amending the third paragraph of section 7975 thereof to read as follows:

"The members shall receive for their services such salary, if any, as is specifically appropriated from time to time by law, and their actual and necessary traveling expenses."; and

(b) by repealing sections 7976 and 7977 thereof.

Section 2. This Act shall not affect any rights or liabilities accrued or incurred under chapter 262 prior to the effective date of this Act with respect to any taxes, penalties and interest provided for under said chapter, but the same shall be enforced and collected in the same manner as if this Act had not been enacted. All funds in the radio commission special fund on July 1, 1939, and all collections of taxes, penalties and interest thereafter, shall be forthwith paid into the general fund of the Territory, and all expenses of the radio commission shall from and after said date be paid out of appropriations made by the legislature.

Section 3. This Act shall take effect upon July 1, 1939.

(Approved May 16, 1939.) **S.B. 2, Act 236.**

CHAPTER 262A. HAWAII HOUSING AUTHORITY.

[D-188] An Act to Amend Act 190 (Series D-168) of the Session Laws of Hawaii 1935, as Amended by Act 3 (Series D-169), and Act 179 (Series D-168) of the Session Laws of Hawaii 1937, Relating to the Creation of the Hawaii Housing Authority and Providing for Its Powers and Duties by Amending Sections 19, 20 and 26 Thereof, and by Adding Thereto a New Section, to be Numbered Section 27, Said Sections 19, 20, 26 and 27 Relating to the Hawaii Housing Authority, Investments in the Bonds of the Hawaii Housing Authority, the Exemption of the Hawaii Housing Authority and Its Property From Taxes and Assessments, Limitations on the Renting of Its Dwelling Accommodations, the Exemption of Its Property From Levy, Execution Sale and Judgment Liens, and Its Powers, Duties and Privileges.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 190 of the Session Laws of Hawaii 1935, as amended by Act 3 and Act 179 of the Session Laws of Hawaii 1937, is hereby amended by amending section 19 thereof to read as follows:

[Sec. 7978R.] “Sec. 19. **Bonds legal investments.** All public officers and bodies of the Territory, all political subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, all executors, administrators, guardians, trustees, and all other persons and fiduciaries in the Territory may legally invest funds within their control and available for investment under other provisions of law, in bonds of the authority, it being the purpose of this section to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any such funds owned or controlled by them, including (without prejudice to the generality of the foregoing), sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit by savings banks and savings institutions, for the purchase of any bonds of the authority.” [L. 1935, c. 190, s. 19; am. L. 1939, c. 91, s. 1.]

Section 2. Act 190 of the Session Laws of Hawaii 1935, as amended by Act 3 and Act 179 of the Session Laws of Hawaii 1937, is hereby further amended by amending section 20 thereof to read as follows:

[Sec. 7978S.] “Sec. 20. **Exemption from taxation and assessments.** The authority and its property shall be exempt from any and all taxes and assessments of whatsoever nature. Bonds, notes, debentures and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.” [L. 1935, c. 190, s. 20; am. L. 1939, c. 91, s. 2.]

Section 3. Act 190 of the Session Laws of Hawaii 1935, as amended by Act 3 and Act 179 of the Session Laws of Hawaii 1937, is further amended by amending section 26 thereof to read as follows:

[Sec. 7978Y.] “Sec. 26. **Rentals and tenant selection.** In the operation or management of housing projects the authority (acting directly or by an agent or agents) shall at all times observe the following duties with respect to rentals and tenant selections:

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"(a) It shall not accept any person as a tenant in any dwelling in a housing project if the persons who would occupy the dwelling have an aggregate annual net income in excess of five times the annual rental of the quarters to be furnished such persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for the purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. (b) It may rent or lease the dwelling accommodations therein only at rentals within the financial reach of persons who lack the amount of income which it determines to be necessary in order to obtain safe, sanitary and uncongested dwelling accommodations within the area of operation of the authority and to provide an adequate standard of living. (c) It may rent or lease to a tenant a dwelling consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

Nothing contained in Act 190 of the Session Laws of Hawaii 1935, as amended, shall be construed as limiting the power of the authority: (a) To vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by said law, as amended, with respect to rentals, tenant selection, manner of operation, or otherwise; or (b) to vest in obligees the right, in the event of a default by the authority, to acquire title to a housing project or the property mortgaged by the housing authority, free from all the restrictions imposed by said law, as amended, except those imposed by section 16." [L. 1937, c. 179, s. 26; am. L. 1939, c. 91, s. 3.]

Section 4. Act 190 of the Session Laws of Hawaii 1935, as amended by Act 3 and Act 179 of the Session Laws of Hawaii 1937, is further amended by adding thereto a new section to be numbered section 27 and to read as follows:

[Sec. 7978Z.] "Sec. 27. **Exemption of property from execution sale.** All real property of the authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the authority be a charge or lien upon its real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority on its rents, fees or revenues."

Section 5. Severability clause. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 6. Act controlling. Insofar as the provisions of this Act

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are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 7. Effective date. This Act shall take effect upon its approval.

(Approved May 24, 1939.) **S.B. 291, ACT 91.**

VALIDATING ACT.

[D-189] An Act to Declare Valid and Legal the Establishment and Organization of the Hawaii Housing Authority and Validating Certain Undertakings of the Hawaii Housing Authority.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The establishment and organization of the Hawaii Housing Authority under the provisions of Act 190 (Series D-188) of the Session Laws of Hawaii 1935, as amended by Act 3 (Series D-169) and Act 179 (Series D-168), of the Session Laws of Hawaii 1937, together with all proceedings and acts and things heretofore undertaken, performed or done with reference thereto, including the appointment of members and election of officers, and all contracts, including notes and obligations, entered into by the Hawaii Housing Authority with the United States Housing Authority, the city and county of Honolulu, and the Bishop National Bank of Hawaii at Honolulu, are hereby validated, ratified and confirmed, notwithstanding any lack of statutory authority or defects or irregularities therein.

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 108, ACT 79.**

CHAPTER 262B. HAWAII EQUAL RIGHTS COMMISSION.

[D-190] An Act to Amend Act 212 (Series D-169) of the Session Laws of Hawaii 1935, as Amended by Act 204 (Series D-170) of the Session Laws of Hawaii 1937, Relating to the Hawaii Equal Rights Commission, Providing for the Appointment of Its Members, Prescribing Its Powers and Duties, Creating a Bureau of Information and Defining Its Duties, and Appropriating Money for Purposes of the Said Commission and this Act.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 212 (Series D-169) of the Session Laws of Hawaii 1935, as amended by Act 204 (Series D-170) of the Session Laws of Hawaii 1937, is hereby amended by amending sections 1, 2 and 3 thereof to read as follows:

[Sec. 7979.] “Section 1. **Creation of commission.** There is hereby created a commission to be known as the Hawaii Equal Rights Commission to consist of the governor of the Territory, who shall be ex-officio chairman of said commission, and four other members, not more than two of whom shall be of the same political party, to be appointed and be removable by the governor in the manner provided by section 80 of the Organic Act. One of the appointive members shall serve for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years. The terms of all subsequent appointive members of the commission shall be for a term of four years and until their successors are appointed and qualified, except that a person appointed to fill a vacancy caused by death, resignation or otherwise, occurring prior to the expiration of such term, shall be appointed for the remainder of such term. Meetings of said commission shall be held at the call of the chairman. The members shall serve without pay but shall receive their reasonable traveling and other necessary expenses. [L. 1935, c. 212, s. 1; am. L. 1939, c. 218, pt. of s. 1.]

[Sec. 7979A.] “Section 2. **Powers and duties.** It shall be the duty of said commission:

- (1) To assemble, compile, and in its discretion, publish information or data intended to: (a) support the rights of and secure to the Territory and its inhabitants the same or equal treatment or usage as that received by the several states of the United States from the federal government; (b) oppose and prevent federal and state legislature discriminatory to the Territory and its inhabitants; and (c) assist the legislature in obtaining such amendments to the Organic Act as are duly requested by the legislature;
- (2) To vigilantly protect the Territory and its inhabitants against unequal, unjust or discriminatory action, treatment or legislation by the federal government or state governments, including their county or municipal subdivisions;
- (3) To correct, prevent or refute such misinformation or false statements regarding the Territory and its inhabitants as may be disseminated, broadcast or published in the United States or elsewhere;
- (4) To oppose or prevent any discrimination that may arise in the United States or elsewhere against Hawaiian-born American citizens;
- (5) To appear before committees of the Congress of the United States in regard to legislation affecting the Territory when requested to do so by such committees, the legislature, or the governor and the delegate to Congress;
- (6) To conduct investigations, either at the direction of the governor or the legislature, concerning unequal or unjust treatment or usage of the Territory or its inhabitants, the sources or reasons for misinformation or false statements, regarding the Territory or its inhabitants, or discrimination against the Territory or its Hawaiian-born American citizens;
- (7) To appoint an executive secretary and such assistants as it deems necessary for the effectuation of its purposes at such salaries as it may fix; and
- (8) To prepare a biennial report and submit the same to the

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legislature at its regular sessions. [L. 1935, c. 212, s. 2; am. L. 1939, c. 218, pt. of s. 1.]

[Sec. 7979B.] **“Section 3. Bureau of information; duties.** There shall be a bureau of information in and maintained by the commission called the bureau of information. The executive secretary of the commission shall administer the affairs of the bureau. The executive secretary shall, subject to the directions of the commission, have general supervision over the bureau. He shall exercise such powers and perform such duties as may from time to time be delegated to or required of him by the commission.

The bureau shall be a bureau of general information concerning the Territory. It shall compile and disseminate material concerning the Territory's status as an incorporated territory and an integral part of the United States. It shall also compile and disseminate material concerning statehood for the Territory. It shall also compile and disseminate material intended to correct or prevent such misinformation or false statements regarding the Territory or its inhabitants as may be disseminated, broadcast or published in the United States, or elsewhere. It shall receive, record and tabulate complaints of territorial citizens, corporations, companies, associations and industries and of governmental offices, boards, commissions and agencies of acts, threatened acts or instances of unequal or unjust treatment of the Territory or them by the federal or state governments or their respective officers or agencies, or of discriminatory federal or state action or legislation, or of discriminatory treatment or usage of Hawaiian-born American citizens, and it shall oppose and take such action, as the commission shall deem advisable and proper, to prevent such treatment, usage, action or legislation.

The bureau shall diligently aid and assist any territorial citizen, corporation, company, association, industry, officer, board, commission or agency in opposing or preventing unequal, discriminatory or unjust treatment or usage of him or them by the federal or state governments or the county or municipal subdivisions thereof.” [L. 1935, c. 212, s. 3; am. L. 1937, c. 204, s. 1; am. L. 1939, c. 218, pt. of s. 1.]

Section 2. Appropriation. The sum of twenty thousand dollars (\$20,000.00), or so much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory for the purposes of this Act, including (but not limited to) the payment of the expenses of the commission and salaries of the executive secretary and such assistants as may be employed. All expenditures under this Act shall be paid upon vouchers approved by the chairman. The per diem or other expenses of the members of the commission shall not be limited by the provisions of section 102 of the Revised Laws of Hawaii 1935, as amended.

Section 3. As soon as practicable after the effective date of this Act, the governor shall make new appointments of appointive members of the Hawaii Equal Rights Commission in conformity with the provisions of section 1 of said Act 212 as hereby amended, relating to the initial appointments of such members.

Section 4. This Act shall take effect from and after the first day of July, 1939.

(Approved May 12, 1939.) **S.B. 33, ACT 218.**

Title XXVII. BOND ACTS AND SINKING FUNDS.

CHAPTER 263. TERRITORIAL BOND ISSUES.

[E-191] An Act to Amend Sections 8006 and 8025, Revised Laws of Hawaii 1935, Relating to Form of Territorial Bonds and Refunding Bonds, Respectively, to Require the Signature of the Auditor of the Territory Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 8006, Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 8006. Form of bonds. All bonds issued under the provisions of this subtitle shall be lithographed or steel engraved, and shall be signed by the treasurer of the Territory, and by the auditor of the Territory, and be sealed with the seal of the office of the treasurer. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the treasurer of the Territory." [L. 1919, c. 207, s. 7; R. L. 1935, s. 8006; am. L. 1939, c. 50, s. 1.]

Section 2. Section 8025, Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 8025. Engraving; signatures. All refunding bonds issued under the provisions of this chapter shall be lithographed or engraved and shall be signed by the treasurer of the Territory and by the auditor of the Territory, and be sealed with the seal of the treasury department of the Territory. If interest coupons are attached to such bonds, they shall bear a lithographed or engraved facsimile of the signature of the treasurer of the Territory. In case any of such officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds." [L. 1909, c. 78, s. 5; R. L. 1935, s. 8025; am. L. 1939, c. 50, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **S.B. 119, Act 50.**

CHAPTER 265. REFUNDING BONDED INDEBTEDNESS.

Sec. 8025. Engraving; Signatures. Amended by Act 50, above.

CHAPTER 267. MUNICIPAL AND COUNTY BONDS AND SINKING FUNDS, GENERAL.

HONOLULU WATER WORKS.

[E-192] An Act to Amend Section 1 of Act 185, Session Laws of 1931, as Amended by Act 179, Session Laws of 1935, Relating to Authorization of an Additional Issue of Bonds to Provide for Additions to and Improvements of the Water System of the District of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 185 of the Session Laws of 1931, as amended by Act 179 of the Session Laws of 1935, is hereby amended to read as follows:

"Section 1. (Nuuanu reservoir, water system for Pacific Heights.) In addition to the bonds authorized to be issued under section 2 of Act 150 of the Session Laws of 1925, as amended by Act 40, Session Laws of 1927, and Act 178 of the Session Laws of 1929, the treasurer of the city and county of Honolulu is hereby authorized and empowered to and shall, when so directed by the board of water supply of the city and county of Honolulu, issue bonds of the city and county of Honolulu, with interest coupons attached thereto, to an amount not to exceed three hundred and fifty thousand dollars (\$350,000.00) which shall be issued before July 1, 1932, the proceeds of which additional bonds shall be expended by said board of water supply for the following purposes in the following preferred order, viz: (1) the reconstruction of Reservoir No. 4 in Nuuanu Valley, two hundred and fifty thousand dollars (\$250,000.00) and (2) the construction of a water system for Pacific Heights, one hundred thousand dollars (\$100,000.00). and in case the amount specified in any item in this section shall not be wholly required to complete the work on such item, the unrequired balance may, after the completion of said item, be expended for the work specified in the other item, and any unrequired balance remaining after the completion of both the items in this section may be expended for other necessary improvements in water projects, in such manner as the said board of water supply shall determine, as provided in Section 9 of Act 96 of the Session Laws of 1929; it being expressly provided that the term 'proceeds' as hereinbefore used shall include all premiums received on account of the sale of said bonds, any provisions of law to the contrary notwithstanding. The principal and interest of said bonds shall be payable in lawful money of the United States of America, of the present standard of weight and fineness, or its equivalent, in the manner and upon the terms in this Act provided; and, in addition to the provisions hereof, the issuance of said bonds shall be governed by the provisions of the Act of Congress approved April 30, 1900, entitled: 'An Act to provide a government for the Territory of Hawaii', and any amendments thereto in effect at the time said bonds are issued. No bonds shall be issued until after the issuance thereof shall have been first approved by the President of the United States, and such approval shall be conclusive proof that all requirements of law have been duly complied with, and that said bonds are, in all respects, valid and incontestable; provided, however,

BOND ACTS AND SINKING FUNDS.
GENERAL APPROPRIATION ACT.

SERIES E-192.—Act 73.]

SERIES E-193.—Act 58.]

SERIES E-194.—Act 244.]

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that the principal and interest of any bonds issued after March 15, 1935, shall be payable in legal tender of the United States."

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 207, Act 73.**

CHAPTER 267A. THE REVENUE BOND ACT OF 1935.

[E-193] An Act Amending Act 174 of the Session Laws of 1935, as Amended by Act 23 of the Session Laws of 1937, Being the Revenue Bond Act of 1935, as Amended, by Further Extending the Term Thereof for Two Years.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 17 of the Revenue Bond Act of 1935, being Act 174 of the Session Laws of 1935, as amended by Act 23 of the Session Laws of 1937, is hereby amended to read as follows:

(Sec. 8066 P.) "Section 17. **Termination of power to issue bonds.** Except in pursuance to any contract or agreement theretofore entered into by any municipality, no municipality shall borrow any money or deliver any bonds pursuant to this Act to the purchaser or purchasers thereof after June 30, 1941." [L. 1935, c. 174, s. 17; am. L. 1937, c. 23, s. 1; am. L. 1939, c. 58, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1939.) **H.B. 70, Act 58.**

CHAPTER 267B. APPROPRIA- TIONS, GENERAL.

[E-194] An Act Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as may be necessary, respectively, are hereby appropriated for the objects and purposes hereinafter specified for the biennial period ending June 30, 1941, out of the moneys in the treasury received from general revenues:

GENERAL GOVERNMENT

Publication Session Laws of Hawaii	\$	8,500.00
A. Personal Services	\$	1,000.00
B. Other Current Expenses		7,500.00

Governor's Office and Washington Place,		40,000.00
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B. Other Current Expenses	40,000.00	
To be expended at the discretion of the Governor		
Auditor's Office	170,382.00	
A. Personal Services	136,197.00	
Auditor	14,400.00	
Deputy Auditor	12,960.00	
Other Personal Services	108,837.00	
B. Other Current Expenses	21,685.00	
C. Equipment	12,500.00	
Treasurer's Office	70,669.00	
A. Personal Services	60,089.00	
Treasurer	14,400.00	
Other Personal Services	45,689.00	
B. Other Current Expenses	9,680.00	
C. Equipment	900.00	
Taxation Maps Bureau	52,023.00	
A. Personal Services	46,523.00	
B. Other Current Expenses	5,200.00	
C. Equipment	300.00	
Tax Commissioner	904,187.00	
A. Personal Services	723,687.00	
Tax Commissioner	14,400.00	
Other Personal Services	709,287.00	
B. Other Current Expenses	125,500.00	
Litigation Expenses	5,000.00	
C. Equipment	50,000.00	
Motor Vehicles	6,250.00	
Other Equipment	43,750.00	
Boards of Review and Tax Appeal Courts	25,000.00	
B. Other Current Expenses	25,000.00	
Bureau of the Budget	75,435.00	
A. Personal Services	61,935.00	
Director	15,000.00	
Other Personal Services	46,935.00	
B. Other Current Expenses	10,000.00	
C. Equipment	3,500.00	
Public Debt Service	22,208.00	
B. Other Current Expenses	22,208.00	
Attorney General's Office	108,088.03	
A. Personal Services	92,588.00	
Attorney General	19,800.00	
Assistant Attorney General	14,400.00	
Deputy Attorney General	10,800.00	
Deputy Attorney General	9,600.00	

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Deputy Attorney General	6,840.00	
Deputy Attorney General	6,840.00	
Other Personal Services	24,308.00	
 B. Other Current Expenses	10,000.00	
C. Equipment	5,500.00	
 Secretary of Hawaii		29,107.00
A. Personal Services	23,767.00	
B. Other Current Expenses	3,200.00	
"Star-Annotation Service"	2,000.00	
C. Equipment	140.00	
 Supreme Court		58,954.00
A. Personal Services	31,654.00	
B. Other Current Expenses	18,300.00	
C. Equipment	9,000.00	
 District Court of Kalawao		1,950.00
A. Personal Services	1,800.00	
B. Other Current Expenses	150.00	
 Expenses of Elections		35,500.00
A. Personal Services	24,400.00	
B. Other Current Expenses	10,000.00	
C. Equipment	1,100.00	
 Superintendent of Public Works		38,166.00
A. Personal Services	28,501.00	
Superintendent	14,400.00	
Other Personal Services	14,101.00	
 B. Other Current Expenses	6,795.00	
C. Equipment	2,870.00	
 Public Buildings and Grounds Service		129,954.00
A. Personal Services	105,534.00	
B. Other Current Expenses	18,000.00	
C. Equipment	2,970.00	
Furniture, Furnishings and Fixtures, Washington Place, including Liliuokalani Piano	3,450.00	
 Structures, Additions, Maintenance, Repairs to and Tearing Down or Removal of Government Property (including Airports, Armories, War Memorials) and Improve- ments to Grounds		139,916.00
A. Personal Services	23,227.00	
B. Other Current Expenses	107,439.00	
C. Equipment	9,250.00	
 Motor Vehicles	1,800.00	
Other Equipment	5,450.00	

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Special Equipment — Dual Control in Treasurer's Vault	2,000.00	
TOTAL: GENERAL GOVERNMENT		\$ 1,910,039.00
PROTECTION TO PERSONS AND PROPERTY		
National Guard		\$ 95,111.00
A. Personal Services	47,111.00	
Adjutant General	10,800.00	
Other Personal Services	36,311.00	
B. Other Current Expenses	40,000.00	
Travel Expense — Commanding Officer, 299th Infantry	1,000.00	
C. Equipment	5,000.00	
Motor Vehicles	750.00	
Other Equipment	4,250.00	
D. Equipment—Lihue Armory	1,000.00	
E. Structures and Permanent Improvements to Land	1,000.00	
Rifle Range — Maui Camp Site	1,000.00	
Deputy Bank Examiner		82,496.00
A. Personal Services	71,996.00	
B. Other Current Expenses	10,000.00	
C. Equipment	500.00	
Insurance Commissioner		13,850.00
A. Personal Services	7,200.00	
B. Other Current Expenses	5,400.00	
C. Equipment	1,250.00	
Motor Vehicles	1,000.00	
Other Equipment	250.00	
Industrial Accident Board, Honolulu		21,723.00
A. Personal Services	18,623.00	
B. Other Current Expenses	2,900.00	
C. Equipment	200.00	
Industrial Accident Board, Hawaii		3,995.00
A. Personal Services	3,320.00	
B. Other Current Expenses	575.00	
C. Equipment	100.00	
Industrial Accident Board, Maui		3,800.00
A. Personal Services	2,600.00	
B. Other Current Expenses	1,200.00	
Industrial Accident Board, Kauai		2,400.00
A. Personal Services	1,800.00	
B. Other Current Expenses	600.00	

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Bureau of Conveyances		131,720.00
A. Personal Services	109,070.00	
B. Other Current Expenses	17,500.00	
C. Equipment	5,150.00	
Office of the Commissioner of Public Lands and Survey Department		238,461.00
A. Personal Services	197,326.00	
Commissioner of Public Lands and Surveyor	14,400.00	
Other Personal Services	182,926.00	
B. Other Current Expenses	36,500.00	
C. Equipment	4,635.00	
Motor Vehicles	2,500.00	
Other Equipment	2,135.00	
Land Court		35,620.00
A. Personal Services	33,120.00	
B. Other Current Expenses	2,200.00	
C. Equipment	300.00	
TOTAL: PROTECTION TO PERSONS AND PROPERTY	\$ 629,176.00	

CONSERVATION OF HEALTH AND SANITATION

General Administration—Board of Health		65,350.00
A. Personal Services	57,124.00	
Territorial Commissioner	14,400.00	
Other Personal Services	42,724.00	
B. Other Current Expenses	7,500.00	
C. Equipment	726.00	
Bureau of Vital Statistics		34,021.00
A. Personal Services	25,247.00	
B. Other Current Expenses	7,500.00	
C. Equipment	1,274.00	
Bureau of Public Health Nursing		256,568.00
A. Personal Services	210,852.00	
B. Other Current Expenses	35,500.00	
C. Equipment	10,216.00	
Motor Vehicles	8,650.00	
Other Equipment	1,566.00	
Tuberculosis: Private Hospitals		810,000.00
F. Grants, Subsidies and Contributions	810,000.00	
Leahi Home	320,000.00	
Kula Sanitarium	170,000.00	
Samuel Mahelona Memo- rial Hospital	120,000.00	
Puumaile Home	200,000.00	

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Tuberculosis Bureau		33,568.00
A. Personal Services	23,168.00	
B. Other Current Expenses	10,000.00	
C. Equipment	400.00	
Plague Campaign		136,056.00
A. Personal Services	100,316.00	
B. Other Current Expenses	31,000.00	
C. Equipment	3,740.00	
Motor Vehicles	3,525.00	
Other Equipment	215.00	
E. Structures and Permanent Improvements to Land	1,000.00	
Buildings	1,000.00	
Bureau of Communicable Diseases		66,824.00
A. Personal Services	40,718.00	
B. Other Current Expenses	24,000.00	
C. Equipment	2,106.00	
Board of Hospitals and Settlement:		
General Administration		60,072.00
A. Personal Services	56,072.00	
B. Other Current Expenses	3,700.00	
C. Equipment	300.00	
Kalaupapa Settlement		661,515.00
A. Personal Services	213,515.00	
B. Other Current Expenses	415,500.00	
C. Equipment	10,000.00	
F. Fixed Charges	22,500.00	
Contribution to Inmates	22,500.00	
Kalihi Hospital		198,176.00
A. Personal Services	83,006.00	
B. Other Current Expenses	107,920.00	
C. Equipment	2,850.00	
F. Fixed Charges	4,400.00	
Contribution to Inmates	4,400.00	
Parole and Suspect Division		17,035.00
A. Personal Services	6,960.00	
B. Other Current Expenses	10,000.00	
C. Equipment	75.00	
Vineyard Street Office		11,264.00
A. Personal Services	6,214.00	
B. Other Current Expenses	4,500.00	
C. Equipment	550.00	
Welfare Division		8,671.00
A. Personal Services	7,121.00	
B. Other Current Expenses	1,550.00	

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Kalaupapa Store	8,500.00
B. Other Current Expenses	8,500.00
Care and Placement of Dependent Children under the Care and Custody of the Board of Hospitals and Settlement	17,700.00
B. Other Current Expenses	17,700.00
Bureau of Maternal and Infant Hygiene	34,245.00
A. Personal Services	13,640.00
B. Other Current Expenses	20,355.00
C. Equipment	250.00
Boards of Examiners	540.00
A. Personal Services	240.00
B. Other Current Expenses	300.00
Bureau of Sanitation	163,369.00
A. Personal Services	139,687.00
B. Other Current Expenses	18,838.00
C. Equipment	4,844.00
Motor Vehicles	3,490.00
Other Equipment	1,354.00
Bureau of Pure Food and Drugs	21,687.00
A. Personal Services	19,287.00
B. Other Current Expenses	2,100.00
C. Equipment	300.00
Government Physicians	96,300.00
A. Personal Services	88,800.00
B. Other Current Expenses	7,500.00
TOTAL: CONSERVATION OF HEALTH AND SANITATION	\$ 2,701,461.00

DEVELOPMENT AND CONSERVATION OF NATURAL RESOURCES

Board of Administration—Board of Agriculture and Forestry	50,905.00
A. Personal Services	38,310.00
President's Salary	14,400.00
Other Personal Services	23,910.00
B. Other Current Expenses	11,595.00
C. Equipment	1,000.00
Division of Animal Industry	98,645.00
A. Personal Services	77,055.00
B. Other Current Expenses	15,140.00
C. Equipment	1,950.00
Motor Vehicles	1,000.00
Other Equipment	950.00

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E. Structures and Permanent Improvements to Land	1,500.00
Sewer System	750.00
Other Structures and Per- manent Improvements to Land	750.00
G. Capital Outlays for Rights and Obli- gations	3,000.00
Refunds, Awards and In- demnities	3,000.00
Division of Entomology	121,885.00
A. Personal Services	90,885.00
B. Other Current Expenses	16,000.00
Eradication Giant African Snails	2,500.00
Importation and Propagation of Bene- ficial Insects	5,000.00
C. Equipment	3,000.00
Motor Vehicles	1,800.00
Other Equipment	1,200.00
E. Structures and Permanent Improvements to Land	4,500.00
Fumigation Plants, Hilo, Kahului and Kauai	4,500.00
Division of Forestry	224,223.00
A. Personal Services	170,498.00
B. Other Current Expenses	35,975.00
Importation, Propagation, Distribution of Fruit Trees and Vegetables	10,000.00
C. Equipment	7,750.00
Motor Vehicles	6,200.00
Other Equipment	1,550.00
Division of Fish and Game	121,262.00
A. Personal Services	74,792.00
B. Other Current Expenses	35,905.00
C. Equipment	10,565.00
Motor Vehicles	10,000.00
Other Equipment	565.00
Division of Hydrography	85,911.00
A. Personal Services	25,561.00
B. Other Current Expenses	13,250.00
Other Current Expenses to be matched in like amount from Federal Funds	47,100.00
TOTAL: DEVELOPMENT AND CONSER- VATION OF NATURAL RESOURCES....	\$ 702,831.00

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CHARITIES, HOSPITALS AND CORRECTIONS

Lunalilo Home	24,000.00
F. Fixed Charges	24,000.00
Contributions for support of	24,000.00
Shingle Memorial Hospital	15,000.00
F. Fixed Charges	15,000.00
Contributions for support of	15,000.00
Territorial Hospital	847,779.00
A. Personal Services	522,884.00
B. Other Current Expenses	300,000.00
C. Equipment	24,895.00
Motor Vehicles	6,175.00
Other Equipment	18,720.00
Waimano Home	389,823.00
A. Personal Services	165,723.00
B. Other Current Expenses	144,000.00
C. Equipment	2,600.00
E. Structures and Permanent Improvements to Land	77,500.00
Buildings	58,000.00
Water Tanks	9,000.00
Cyclone Fence	4,500.00
Conduits for Light and Pow- er Lines	4,000.00
Highways and Trails	2,000.00
General Office—Board of Prison Directors	49,546.00
A. Personal Services	44,646.00
B. Other Current Expenses	4,500.00
C. Equipment	400.00
Oahu Prison	422,199.00
A. Personal Services	248,199.00
B. Other Current Expenses	165,300.00
C. Equipment	8,700.00
Motor Vehicles	2,500.00
Other Equipment	6,200.00
Prisoners' Compensation	15,000.00
A. Personal Services	15,000.00
Board of Industrial Schools (Proper)	53,265.00
A. Personal Services	29,014.00
B. Other Current Expenses	6,251.00
Home Placements Kawailoa	2,500.00
Home Placements Waialelee	15,000.00
C. Equipment	500.00

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Kawaiola Training School for Girls		151,981.00
A. Personal Services	80,169.00	
Provided that the Physician appointed under this item on a part-time basis shall receive a salary of \$100.00 per month, and provided, further, that the person appointed as such physician shall be the same person serving as territorial physician at Heela-Waimanalo and/or city and county physician in the same general localities.		
B. Other Current Expenses	62,310.00	
C. Equipment	6,902.00	
Motor Vehicles	1,300.00	
Other Equipment	5,602.00	
E. Structures and Permanent Improvements to Land	2,600.00	
Buildings	1,000.00	
Highways, Trails, etc.	1,000.00	
Other Improvements to Land	600.00	
Waialee Training School for Boys		212,404.00
A. Personal Services	102,854.00	
B. Other Current Expenses	84,550.00	
C. Equipment	25,000.00	
Motor Vehicles	2,200.00	
Other Equipment	22,800.00	
TOTAL: CHARITIES, HOSPITALS AND CORRECTIONS		\$2,180,997.00
EDUCATION		
University of Hawaii		906,667.00
A. All functions expendable at the direction and under the supervision of the Board of Regents of the University of Hawaii. Provided, however, that the amount of this appropriation necessary to match allotments made by the Federal Government for extension work shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments. Provided, further, that disbursements matching Federal allotments may be regularly audited by the Federal auditor and shall be subject to the same limitations as respects the character of expenditures of the Federal funds which it offsets. Provided, further, that this amount shall be inclusive of the sum of \$12,000.00 for Volcanology. Provided further, that the University may employ a Volcanologist without		

consideration as to age, any other provision of law to the contrary notwithstanding.	
Library of Hawaii	237,910.00
A. Personal Services	169,910.00
B. Other Current Expenses	35,000.00
C. Equipment	33,000.00
Hilo Library	74,935.00
A. Personal Services	48,511.00
B. Other Current Expenses	7,409.00
C. Equipment	19,015.00
Maui County Free Library	65,545.00
A. Personal Services	39,259.00
B. Other Current Expenses	8,000.00
C. Equipment	18,286.00
Kauai Public Library Association, Ltd.	38,293.00
A. Personal Services	25,293.00
B. Other Current Expenses	4,500.00
C. Equipment	8,500.00
Public Archives	31,623.00
A. Personal Services	25,673.00
B. Other Current Expenses	3,950.00
C. Equipment	2,000.00
Division of Vocational Rehabilitation	20,300.00
A. Personal Services	4,590.00
B. Other Current Expenses	15,510.00
C. Equipment	200.00
TOTAL: EDUCATION	\$ 1,375,273.00

MISCELLANEOUS

Veterans Hawaii Guard 1893-1898	10,000.00
F. Fixed Charges	10,000.00
Grants, Subsidies and Contributions	10,000.00
Aiding Indigent Persons Released from Kalihi Hospital and Kalaupapa	3,000.00
F. Fixed Charges	3,000.00
Grants, Subsidies and Contributions	3,000.00
Relief of Persons Released from Kalihi Hospital and Kalaupapa	2,500.00
F. Fixed Charges	2,500.00
Grants, Subsidies and Contributions	2,500.00

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Expenses Official Bonds	15,000.00
B. Other Current Expenses	<u>15,000.00</u>
Governor's Contingent Fund	50,000.00
B. Other Current Expenses	<u>50,000.00</u>
From which expenditures may be made only with the approval of the governor and only for urgent needs for which no specific appropriation or an insufficient appropriation is made herein or otherwise, a detailed account of all of which expenditures shall be submitted to the next legislature, provided, however, that no expenditure shall be made out of this fund to increase any salary.	
Governor's Contingent Fund for Temporary Assistants	10,000.00
A. Personal Services	<u>10,000.00</u>
Bureau of Sight Conservation and Work with the Blind	48,489.00
To be expended by the board of public welfare with the approval of the governor of Hawaii or by such other agency to which the functions of said board may be transferred.	
A. Personal Services	30,719.00
B. Other Current Expenses	10,970.00
Revolving Fund for Shop for Blind	5,500.00
C. Equipment	<u>1,300.00</u>
Territorial Planning Board	51,000.00
A. Personal Services	31,000.00
B. Other Current Expenses	8,100.00
C. Equipment	900.00
Park Survey	6,000.00
Master Plan—Hilo	3,000.00
Master Plan—Kapaa, Kauai	<u>2,000.00</u>
Hawaii Tourist Bureau	125,000.00
F. Contribution for support of: Provided that this appropriation shall become available from time to time in fractional amounts equal to one-half the amount then received from individuals and business organizations by said Hawaii Tourist Bureau, five members of which Bureau to be appointed by the Governor for terms of one year each or until a successor is appointed, one of said members to be selected to represent each of the island counties of Hawaii, Maui, Honolulu and Kauai, upon nomination of the Boards of Supervisors of the respective counties in conjunction with the principal civic	

or commercial organizations of said counties, and one to be selected by the Governor to represent the Territory at large; provided, further, that said funds shall be expended exclusively for display advertising space, in metropolitan newspapers and national magazines of mainland United States and/or Canada, and for broadcast or radio, and all such advertising shall be placed through an advertising agency incorporated in the Territory of Hawaii and holding such corporate status for a period of at least three years prior to receiving such appointment, which agency in order to qualify must possess official recognition from representative publishers' associations on the mainland, such as American Newspaper Publishers' Association, Periodical Publishers' Association, etc., as indicating its ability to fully function as a qualified national advertising agency; said monies shall be issued to said Hawaii Tourist Bureau by warrants of the Auditor of the Territory of Hawaii only when satisfactory evidence has been presented to the said Auditor that such an amount has been collected in cash and deposited in a bank to the credit of the Hawaii Tourist Bureau for this purpose; provided, further, that not less than \$25,000.00 of the amount hereby appropriated shall be expended for radio broadcasting from within the Territory.

Radio Commission	30,460.00
A. Personal Services	23,200.00
B. Other Current Expenses	6,060.00
C. Equipment	1,200.00
Territorial Unemployment Compensation Board For the purpose of maintaining public employment offices throughout the Territory, which moneys shall be used for the matching of funds which may be allotted to the Territory under the Act of Congress entitled: "An Act to provide for the establishment of a National Employment System and for Cooperation with States in the Promotion of such System", approved June 6, 1933, as amended.	30,000.00
Hawaiian Homes Commission	188,398.96
A. Personal Services	77,026.88
B. Other Current Expenses	34,940.00
B-1. Fixed Charges	15,347.88

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Interest on Loans Payable to Territory	11,250.00	
Sinking Fund Installment ..	4,097.88	<hr/>
C. Equipment	1,393.50	
E. Structures and Permanent Improvements	40,000.00	
Keaukaha Athletic Field and Play- ground	10,000.00	
F. Fixed Charges	9,690.70	<hr/>
Grants, subsidies and con- tributions	9,690.70	<hr/>
Contribution to Keaukaha Nurs- ery School	9,690.70	<hr/>
TOTAL: MISCELLANEOUS	\$ 563,847.96	<hr/>
INTEREST		
Interest on Funded Debt	2,751,581.50	<hr/>
TOTAL: INTEREST	\$2,751,581.50	<hr/>
PUBLIC SERVICE ENTERPRISES		
Board of Harbor Commissioners (Proper)	22,205.00	
A. Personal Services	15,705.00	
B. Other Current Expenses	6,300.00	
C. Equipment	200.00	<hr/>
Maintenance and Additions, Landings, Wharves and Pipelines, and other Prop- erty under the control of the Board of Harbor Commissioners	330,783.00	
A. Personal Services	140,358.00	
B. Other Current Expenses	103,225.00	
Kailua Wharf Repairs	1,000.00	
Dredging all island ports where neces- sary	52,500.00	
C. Equipment	11,200.00	
Motor Vehicles	6,500.00	
Other Equipment	4,700.00	<hr/>
E. Structures and Permanent Improvements to Land	22,500.00	<hr/>
Shed—Hanalei Wharf	3,000.00	
Lean-to Pier 3, Hilo	2,500.00	
Shed—Kahului Wharf	2,000.00	
Small Boat Harbor at suit- able point on Maalaea Bay for general public use	15,000.00	<hr/>
Harbor Masters and Pilots	113,681.00	
A. Personal Services	79,080.00	
B. Other Current Expenses	30,665.00	
C. Equipment	3,936.00	<hr/>

GENERAL APPROPRIATION ACT.

SERIES E-194.—ACT 244.]

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Motor Vehicles	2,100.00
Other Equipment	1,836.00
TOTAL: PUBLIC SERVICE ENTERPRISES	\$ 466,669.00
GENERAL TRANSFERS	
Employees' Retirement System	56,065.00
A. Personal Services	48,780.00
B. Other Current Expenses	5,200.00
C. Equipment	2,085.00
Pension Accumulation Fund	1,031,278.00
F. Fixed Charges	1,031,278.00
Territorial Contributions ...	1,031,278.00
Permanent Pensions under Act 261, Session Laws of 1925	32,760.00
TOTAL: GENERAL TRANSFERS	\$ 1,120,103.00
GRAND TOTAL OF TOTALS	\$14,401,978.46

Section 2. Changes and transfers may be made by the head of a department or establishment with the approval of the governor, within the foregoing schedule of appropriations, for any organization unit of such department or establishment, as to "Personal Services", "Other Current Expenses" or "Equipment". Provided, however, that in cases where no appropriation is made for "Equipment" for such organization unit of a department or establishment, the head of such department or establishment may, with the approval of the governor, create such appropriation by changes or transfers from "Personal Services" or "Other Current Expenses" or both.

Section 3. With the exception of government physicians and bacteriologists, no other officer or employee in the territorial service or in the service of any county or city and county in receipt of a salary, wage or other compensation or remuneration of \$100.00 or more per month shall receive any additional salary, wage or other compensation or remuneration out of any moneys herein appropriated unless otherwise specifically provided for herein. Provided, however, that the combined salaries of a government physician or a bacteriologist received from more than one governmental source shall, in no event, exceed the total sum of \$400 per month.

Section 4. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid. If the application of any provision of this Act to any person or circumstance is held invalid, the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. No employee receiving remuneration from the above sources shall accept any employment for remuneration, either private or public, during any vacation granted pursuant to sections 103-104 of the Revised Laws of Hawaii 1935, or during any sick leave granted pur-

GENERAL APPROPRIATION ACT.

[SERIES E-194.—ACT 244.

[SERIES E-195.—ACT 217.

[SERIES E-196.—ACT 25.

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suant to section 105 of said Revised Laws. Any employee violating the provisions of this section shall forfeit his position, and shall be ineligible to reemployment in the same department for a period of one year.

Section 6. Any appropriation herein made for any department, commission, board, bureau, agency, instrumentality, or organization unit thereof, or for any other purpose (each of which is hereinafter called the "unit"), (1) to the extent that such appropriation or any part thereof or item set forth under such appropriation is in excess of the appropriation for such unit, in whole, or as to any respective part or item thereunder, as set forth in the general appropriation Act for the biennial period ending June 30, 1939, Act 205 (Series E-173) Session Laws of Hawaii 1937; or (2) if no appropriation for any such unit or any respective part thereof or item set forth thereunder was made by said Act 205 (Series E-173) Session Laws of Hawaii 1937; the same (hereinafter called the "excess" whether within clause 1 or 2 above) shall be expended only with the written approval of the governor in the manner herein set forth. The governor from time to time may approve the expenditure of such excess or any amount thereof, and in granting such approval may authorize the expenditure of the excess part of such appropriation or respective part or item thereof for such unit or for a particular part of such appropriation or item thereunder, to the extent of the appropriation or the particular part thereof or item thereunder authorized by this Act; provided, that nothing herein shall be deemed to affect the power of the governor to authorize changes and transfers as provided by Section 2 of this Act; provided, further, that in the event of such change or transfer the same provisions shall apply as hereinbefore provided in the case of an excess.

Section 7. This Act shall take effect from and after July 1, 1939.

(Approved May 16, 1939.) **H.B. 38, Act 244.**

[E-195] An Act Making a Deficiency Appropriation for the Governor's Contingent Fund for the Current Biennium.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general fund of the Territory, for the biennium ending June 30, 1939, as an addition to the governor's contingent fund provided by Act 205, series E-173 of the Session Laws of Hawaii 1937, the sum of eighty-seven thousand two hundred and three and 13/100 dollars (\$87,203.13).

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **S.B. 400, Act 217.**

[E-196] An Act to Amend Act 205 of the Session Laws of Hawaii 1937, Making Appropriations for the Biennial Period Ending June 30, 1939.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 205 of the Session Laws of Hawaii 1937, is hereby amended by amending the item, appearing on page 325 of the printed volume of said Session Laws, reading:

SCHOOL BUDGET.

SERIES E-196.—Act 25.]
SERIES E-197.—Act 70.]
SERIES E-198.—Act 110.]

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"Kahului Fairgrounds \$10,000.00"
to read:
"Maui Airport \$10,000.00".

(The amount specified in the foregoing item may be expended for lands, construction, materials, supplies, labor and equipment.)

Section 2. This Act shall take effect upon its approval.

(Approved March 30, 1939.) **H.B. 304, Act 25.**

[E-197] An Act to Amend Act 205 of the Session Laws of Hawaii 1937, Making Appropriations for the Biennial Period Ending June 30, 1939.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 205 of the Session Laws of Hawaii 1937, is hereby amended by amending the item appearing on page 332 of the printed volume of said session laws reading:

"Importation, propagation, distribution seed fish 40,000.00"
to read:

"Importation, propagation, distribution seed fish 40,000.00

(Provided that in the case of contracts for the purchase of live bait fishes the awarding officer may, in his discretion, waive the requirement of section 81, Revised Laws of Hawaii 1935, that a bond be furnished by the person with whom such a contract is entered into.)"

Section 2. This Act shall take effect upon its approval.

(Approved April 20, 1939.) **H.B. 467, Act 70.**

[E-198] An Act to Fix the School Budget for the Period Beginning July 1, 1939, and Ending June 30, 1941.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The school budget shall be as follows for the period beginning July 1, 1939, and ending June 30, 1941, and the sums herein-after set forth are hereby appropriated out of the general revenues of the Territory for the following purposes, to wit:

GENERAL SCHOOL FUND

General Administration	\$ 111,670.00
A. Personal Services	\$ 81,300.00
Superintendent	\$ 14,400.00
Other Personal Services	\$ 66,900.00
B. Other Current Expenses	\$ 24,920.00
C. Equipment	\$ 5,450.00

SCHOOL BUDGET.

[SERIES E-198.—ACT 110]

Board of Examiners	800.00
A. Personal Services	50.00
B. Other Current Expenses	700.00
C. Equipment	50.00
Insurance and Bonds	2,000.00
F. Fixed Charges	2,000.00
Field Expenses: General Items	44,500.00
B. Other Current Expenses	29,500.00
C. Equipment	15,000.00
Supplies and Equipment: Grades 1-6	85,485.00
B. Other Current Expenses	58,690.00
C. Equipment	26,795.00
C-1. Equipment—Books	3,000.00
C-2. Equipment — Educational	10,000.00
C-3. Equipment — Home Economics, Shop and Agriculture	13,795.00
Supplies and Equipment: Grade 7-9	68,515.00
B. Other Current Expenses	34,165.00
C. Equipment	34,350.00
C-1. Equipment—Books	3,000.00
C-2. Equipment — Educational	15,000.00
C-3. Equipment — Home Economics, Shop and Agriculture	16,350.00
Supplies and Equipment: Grades 10-12	51,250.00
B. Other Current Expenses	21,250.00
C. Equipment	30,000.00
C-1. Equipment—Books	1,000.00
C-2. Equipment — Educational	10,000.00
C-3. Equipment — Home Economics, Shop and Agriculture	16,000.00
C-4. Equipment — R.O.T.C. & Band	3,000.00
Territorial School for Deaf and Blind	125,500.00
A. Personal Services	81,765.00
B. Other Current Expenses	31,235.00
C. Equipment	3,500.00
E. Structures and Permanent Improvements	9,000.00
Division of Health Education	14,820.00
A. Personal Services	9,420.00
B. Other Current Expenses	4,800.00
C. Equipment	600.00
Division of Dental Hygiene	107,140.00

SCHOOL BUDGET.

SERIES E-198.—ACT 110.]

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A. Personal Services	98,540.00
B. Other Current Expenses	7,900.00
C. Equipment	700.00
Division of Vocational Education	12,300.00
B. Other Current Expenses	7,900.00
C. Equipment	400.00
F. Fixed Charges (Contribution to Special Vocational Fund)	4,000.00
Honolulu Vocational School	7,810.00
A. Personal Services	2,310.00
B. Other Current Expenses	2,100.00
E. Structures and Permanent Improvements	3,400.00
Future Farmers of America	2,000.00
B. Other Current Expenses	2,000.00
Future Homemakers of Hawaii	2,000.00
B. Other Current Expenses	2,000.00
Books for Indigent Children	7,000.00
B. Other Current Expenses	7,000.00
For the purchase by the Department of Public Instruction of necessary books or the payment of authorized book rentals, and for the payment of authorized school fees, for needy pupils registered in grades 1 to 9 inclusive, in the public schools, under such rules as may be prescribed by the department and in accordance with the provisions of Act 112 of the Session Laws of 1929.	
School Expenses and Transportation,	
Crippled Children	5,350.00
B. Other Current Expenses	5,350.00
TOTAL: GENERAL SCHOOL FUND	\$ 648,140.00

TEACHERS' SALARIES FUND

Teachers' Salaries	\$ 11,960,274.00
A. Elementary Teachers	\$ 6,153,139.60
B. Intermediate Teachers	1,478,884.00
C. High School Teachers	1,613,474.80
D. Vocational Teachers	1,087,025.20
E. Principals (16 or more assistants)	559,770.00
F. Supervisors	97,400.40
G. Secretaries	269,040.00
H. Librarians	259,400.00
I. Substitutes	52,500.00
Provided that the Department of Public Instruction shall not hire substitutes unless a teacher is absent for more than 3 days.	
J. Automatic Increases	300,000.00

SCHOOL BUDGET.

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[SERIES E-198.—ACT 110]

K. Additional Teachers	64,000.00
L. Travel	25,640.00
GRAND TOTAL	\$12,608,414.00

Section 2. The Department of Public Instruction shall establish within the funds scheduled in Section 1, the following grades in the following schools as of the dates set opposite the respective items.

<u>School</u>	<u>Grades to be added</u>	<u>Time of Establishment</u>
<u>Oahu:</u>		
Benjamin Parker	12th Grade	Sept., 1939
Waipahu-Ewa	11th Grade	Sept., 1939
Waipahu-Ewa	12th Grade	Sept., 1940
Kahuku	12th Grade	Sept., 1939
<u>Hawaii:</u>		
Waimea	9th Grade	Sept., 1939
Pahala	12th Grade	Sept., 1939
<u>Maui-Molokai:</u>		
Molokai Intermediate	12th Grade	Sept., 1939
Hana	12th Grade	Sept., 1939

Section 3. Changes and transfers may be made by the commissioners of public instruction, with the approval of the governor, within the foregoing schedule of appropriations, for any organization of such department as to "Personal Services", "Other Current Expenses", or "Equipment". Provided, however, that in cases where no appropriation is made for "Equipment" for such organization unit, the commissioners of public instruction may, with the approval of the governor, create such appropriation by changes or transfers from "Personal Services" or "Other Current Expenses", or both.

Notwithstanding any other provisions of law, the Department of Public Instruction shall not make any expenditures during the 1939-1941 biennium in excess of the total herein appropriated.

Section 4. No employee receiving remuneration from the above sources shall accept any employment for remuneration, either private or public, during any vacation granted pursuant to sections 103-104 of the Revised Laws of Hawaii 1935 or during any sick leave granted pursuant to section 105 of said Revised Laws. Any employee violating the provisions of this section shall forfeit his position, and shall be ineligible to reemployment in the same department for a period of one year.

Section 5. This Act shall take effect July 1, 1939.

(Approved April 26, 1939.) **H.B. 134, ACT 110.**

SPECIAL APPROPRIATION.

SERIES E-199.—ACT 41.]
SERIES E-200.—ACT 226.]
SERIES E-201.—ACT 261.]

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[E-199] An Act Making an Appropriation for the Lahainaluna Boarding School.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, the sum of twenty-eight thousand nine hundred forty-eight dollars (\$28,948.00) for the Lahainaluna Boarding School to be expended as follows: twenty-five thousand dollars (\$25,000.00) for the support of said school, and three thousand nine hundred forty-eight dollars (\$3,948.00) for equipment.

Section 2. This Act shall take effect upon its approval.

(Approved April 11, 1939.) **H.B. 342, ACT 41.**

[E-200] An Act to Provide for Additional Equipment for the Teaching of Agriculture and Certain Trades at the Kalaheo Vocational School, Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is appropriated out of the general revenues of the Territory, in addition to any other sums appropriated for Kalaheo Vocational School, the sum of six thousand dollars, to be expended by the department of public instruction for the purpose of providing necessary equipment for the teaching of trades and agriculture at said school.

Section 2. This Act shall take effect on July 1, 1939.

(Approved May 15, 1939.) **S.B. 131, ACT 226.**

[E-201] An Act Appropriating the Sum of Two Hundred Thousand Dollars (\$200,000.00) from the General Revenues of the Territory for Harbor Board Purposes and Providing for the Reimbursement of Such Sum to the Treasury of the Territory Over a Period of Ten (10) Years.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as may be necessary, are hereby appropriated for the objects and purposes hereinafter specified out of moneys in the treasury received from general revenues:

HAWAII

1. For the construction of awnings for the piers, track and conveyor reconstruction, wiring and other improvements including the purchase of land at the Waioa River fishermen's pier, all at Hilo, Hawaii \$ 155,000.00
2. Redecking and repairs to pier at Kailua, Hawaii 10,000.00

SPECIAL APPROPRIATION.

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[SERIES E-201.—Act 261.
[SERIES E-202.—Act 264.]

MAUI

Construction, including any necessary rights-of-way for a sampan and yacht harbor at Maalaea Bay, Maui	35,000.00
(This item not approved. J.B.P.)	
TOTAL	
200,000.00	

Section 2. The aforesaid sum of \$200,000.00 or so much thereof as may be necessary shall be disbursed on warrants drawn by the auditor upon vouchers approved by the board of harbor commissioners.

Section 3. So much of the moneys hereby appropriated as shall be used for the purposes above set forth shall be repaid into the general fund of the Territory in annual instalments over a period not to exceed ten (10) years.

Section 4. In the event that provision for the foregoing appropriation is made by the authorization of bonds from either a territorial bond issue or a revenue bond act as provided by Act 174 of the Session Laws of 1935, as amended, or as may be amended, then the foregoing appropriation shall be null and void.

Section 5. This Act shall take effect upon approval.

(Approved this 17th day of May, A.D. 1939, except as to item "Maui—35,000.00"—This item is not approved.) **S.B. 418, Act 261.**

[E-202] An Act Making Additional Appropriations for the Tuberculosis Bureau of the Board of Health.

WHEREAS, in order to effect a more rapid decrease in the excessive incidence of tuberculosis and in the serious economic and social losses, including unemployability and deaths, due thereto, as pointed out in the Survey on Tuberculosis in the Territory of Hawaii made by Bruce H. Douglas, M. D., in the year 1938, it is necessary that increased appropriations be made for improved and intensive measures for the detection, diagnosis, treatment and isolation of early cases of tuberculosis, for increased health education with respect to said disease, and for rehabilitation and follow-up work relating thereto; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory, in addition to any other appropriations made by law for the same or similar purposes, the following amounts to be expended by the tuberculosis bureau of the board of health of the Territory during the biennium from July 1, 1939, to June 30, 1941, to-wit:

A. Personal Services	\$ 18,292.82
Unclassified positions	
Director	\$ 2,337.80
Provided that the director is the same person as the principal medical officer listed in the budget of the Territory of Hawaii for the biennium 1939-41 on page 42, which salary shall be in	

SPECIAL APPROPRIATION.

SERIES E-202.—Act 264.]

SERIES E-203.—Act 256.]

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addition to that appropriated for the above position in the general appropriation bill.

Classified position

Senior clerk	3,466.56
Clerk—stenographer	3,120.00
Principal medical officer—(part-time)	1,408.38

Provided that the medical officer (part-time) is the same person as the medical officer (part-time) listed in the budget of the Territory of Hawaii for the biennium 1939-41 on page 42, which salary shall be in addition to that appropriated for the above position in the general appropriation bill.

Principal medical officer (part-time)	4,840.08
Medical technician (Roentgenology)	3,120.00

B. Other Current Expenses	15,670.00
0230 Medical & hospital supplies	13,520.00
0270 Stationery & office supplies	1,000.00
05 Travel expense—other travel expenses	400.00
07 Printing & binding	350.00
1100 Machinery & equipment	400.00

C. Equipment	10,838.60
3010 Office equipment and furnishings ..	2,338.60
3020 Educational scientific and recreational equipment (x-ray, fluoroscope, etc.)	8,500.00

Section 2. This Act shall take effect on July 1, 1939.

(Approved May 19, 1939.) **S.B. 163, Act 264.**

[E-203] An Act to Provide for the Establishment and Maintenance of a Home for Disabled War Veterans.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of ten thousand dollars (\$10,000.00) is hereby appropriated out of the general revenues of the Territory for the establishment in the Territory of a home for infirm or disabled United States war veterans, including any persons who were in the military service of the United States at any time during any war in which the United States has heretofore been or may hereafter be engaged. Said sum shall be expended by the board of health of the Territory, (a) for the construction and maintenance of a territorial home for such veterans, or (b) for leasing premises for such home for a term not exceeding ten years and for maintenance of such home, or (c) for maintenance of such veterans in some private institution or home.

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1939.) **S.B. 99, Act 256.**

[E-204] An Act to Provide for the Construction of Public Improvements for the Auwaiolimu and Kewalo Homesteads of the Hawaiian Homes Commission, Oahu, and Making an Appropriation for a Part Thereof and Requiring the City and County of Honolulu, the Board of Water Supply and the Hawaiian Homes Commission to Contribute to the Cost Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of thirty-six thousand three hundred dollars (\$36,300.00) is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, for the construction of public improvements for the Auwaiolimu and Kewalo area of the Hawaiian homes commission homesteads in Honolulu, Oahu.

Section 2. The board of supervisors of the City and County of Honolulu is authorized and directed to appropriate the sum of thirty thousand five hundred dollars (\$30,500.00); the board of water supply of the City and County of Honolulu is hereby authorized and directed to make available the sum of ten thousand seven hundred dollars (\$10,700.00); and the Hawaiian homes commission is hereby authorized and directed to make available the sum of thirty-six thousand three hundred dollars (\$36,300.00) from any funds under its control for the construction of public improvements for the Papakolea homesteads in Honolulu, provided that the City and County of Honolulu and the board of water supply may include as part of their contributions, labor, supervisory and engineering services of their own staffs, and materials or supplies from their own stocks at cost.

Section 3. The design and construction of roads, sewers and the moving of buildings shall be under the direction of the City and County of Honolulu. The design and construction of the water mains and appurtenances shall be by or under the direction of the board of water supply of the City and County of Honolulu.

Section 4. Notwithstanding any limitations contained in Act 210 of the Session Laws of 1937, the City and County of Honolulu is authorized to expend from any moneys realized from bond issues authorized by said Act an amount necessary to construct the sewers and to expend the usual pro rata cost paid by the government under sewer improvement assessments in the development of a sewer system for lands under the control of the Hawaiian homes commission in Auwaiolimu, Kewalo and Kalawahine, without going through the process necessary to establish a sewer improvement district.

Section 5. The segregation of costs shall be as follows:

Roads— $\frac{1}{3}$ each to city and county, Territory of Hawaii and Hawaiian homes commission.

Water— $\frac{1}{3}$ each to board of water supply, Territory of Hawaii and Hawaiian homes commission except that board of water supply also provide engineering.

Sewers—city and county to pay for 10" trunk line plus 40% of remainder.

Moving buildings— $\frac{1}{2}$ each to Territory of Hawaii and Hawaiian homes commission.

SPECIAL APPROPRIATION.

SERIES E-204.—ACT 246.]

SERIES E-205.—ACT 28.]

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	city and county	board of water supply	Territory of Hawaii	Haw'n. homes commission	Totals
Roads	\$ 3,225.00	\$ 3,225.00	\$ 3,225.00	\$ 9,675.00
Water	\$10,700.00	9,100.00	9,100.00	28,900.00
Sewers	27,275.00	17,535.00	17,535.00	62,345.00
Moving Bldgs.	6,440.00	6,440.00	12,880.00
TOTALS	\$30,500.00	\$10,700.00	\$36,300.00	\$36,300.00	\$113,800.00

For roads, sewers and the moving of buildings, the segregation of funds contributed by the territory, City and County of Honolulu and the Hawaiian homes commission may be altered to conform to finished plans or estimates if necessary.

Any deficiency in funds necessary to complete the work shall be appropriated by the City and County of Honolulu.

Section 6. In the event that assistance of any sort be supplied by the works progress administration, the public works administration or some like federal agency, then the city and county and the Hawaiian homes commission shall furnish materials and equipment equal to the value of such assistance upon the work designated in section 5 of this Act, for the purpose of extending the water, sewer or road services for the Auwaiolimu and Kewalo area of the Hawaiian homes commission homesteads in Honolulu, Oahu, beyond those contemplated in section 5 of this Act.

Section 7. This Act shall take effect upon its approval.

(Approved May 16, 1939.) **H.B. 402, Act 246.**

[E-205] An Act Appropriating \$120,000.00 for Additional Financing of Activities Under the Public Welfare Law for the Period Ending June 30, 1939.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory for the period from the effective date of this Act to and including June 30, 1939, the sum of one hundred twenty thousand dollars (\$120,000.00) or so much thereof as may be necessary for additional financing of any and all activities provided for by the Public Welfare Law (Chapter 259A of the Revised Laws of Hawaii 1935, as enacted by Act 242, Series D-164, of the Session Laws of Hawaii 1937), as the same may now exist or be hereafter amended. Said appropriation shall be expended in the same manner and for the same purposes as monies collected under Chapter IV of the Appendix to the Revised Laws of Hawaii 1935, as amended.

Section 2. This Act shall take effect upon its approval.

(Approved March 31, 1939.) **S.B. 331, Act 28.**

PAYMENT OF CLAIMS

[E-206] An Act for the Relief of Certain Persons, Firms and Corporations on Account of Overpayment of Taxes and Other Claims Against the Territory, and Providing Appropriations Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The following respective sums of money are hereby appropriated out of the general revenues of the Territory of Hawaii for the purpose of reimbursing the following named persons, firms and corporations, for overpayment of taxes or for taxes illegally collected, or on account of other claims against the territory, in the amounts set opposite their respective names:

Investment Corporation	Income Tax	\$ 18.00
Fred E. Harvey	Unemployment Relief Tax	130.27
Stanley Wright	Unemployment Relief Tax	82.00
James P. Lynch	Income Tax	91.09
Cameron and Johnstone	Business Excise Tax	736.03
John M. Hepburn	Income Tax	216.58
Siphon Co. Ltd.	Personal Property Tax	55.68
Estate of Anna L. Filler, Deceased	Income Tax	50.72
Theodore A. Winston	" "	149.34
E. A. Moody	" "	34.65
Mark A. Robinson	" "	733.07
Cora G. Adams	" "	1,016.57
Harry Parker Trust Est.	Real Property Tax	500.96
Hooliliamanu Ah Quin	" "	32.71
Florence H. Englesby	Income Tax	7.39
Employers' Liability Assurance Corp., Ltd.	Tax on Insurance Premiums	79.87
Occidental Life Ins. Co.	Tax on Insurance Premiums	3,080.02
Northern Assurance Co., Ltd.	Tax on Insurance Premiums	9.30
Union Oil Co. of California	Fuel Tax	104.83
Young Anin, Ltd.	Income Tax	176.98
Matilda A. Foster, Deceased, c/o F. E.	" "	162.07
Thompson, Anc. Admin.	" "	32.23
George B. Crackel	" "	288.47
Ernest W. Greene	" "	3.12
W. A. Johnston, Jr.	" "	11.22
Leoti V. Krone	" "	23.03
Mabel Deane Howland	" "	287.54
Robert A. Stewart	" "	64.02
C. J. Marr	" "	79.57
Sophie K. Walker	" "	60.65
Charles E. Davies	Publicity Utility and Income Tax	265.01
Kapaa Electric Co.	Real Property Tax	36.54
Mrs. Mary Joyce	" " "	97.03
Sophie K. Holt		

APPROPRIATION FOR PAYMENT OF CLAIMS.
SERIES E-206.—ACT 233.]

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Thomas M. Feiteira and wife	Real Property Tax	23.26
Koon Chan Fong	" " "	25.64
Kiichi Yamamoto	" " "	29.98
Lum Yip Kee & Yee Yap by their agent Y. T.		
Lum, P. O. Box 1876	" " "	88.65
Lum Yip Kee by Y. T. Lum, his attorney in fact	" " "	179.89
Lum Yip Kee, Ltd.	" " "	42.18
Chum Chin	" " "	21.94
Standard Oil Co. of California	" " "	617.91
Y. Imamura	" " "	11.15
Mrs. Melinda A. Stone	" " "	4.50
Honolulu Dairymen's Association	" " "	215.55
John de Souza, Jr.	" " "	15.28
Mitsuo Kuramoto	" " "	32.65
Rebecca A. Kauhaihao	" " "	14.80
Thomas Gouveia	" " "	20.95
Mrs. Annie Keahohou	" " "	12.39
Kametaro Kobayashi	" " "	18.42
Tokuichi Kobayashi	Excise Tax	2.31
A. T. Spalding	Income Tax	25.00
Abraham Lau Kong	Real Property Tax	13.29
Jessie G. Campbell	Poll Tax	5.00
Mrs. C. Oshiro	" " "	5.00
Shigeo Tanoue	" " "	5.00
Hidekichi Higuchi	" " "	16.65
Gregorio Luis	" " "	15.00
Mrs. Mitsue Horita	" " "	5.00
Mamoru Nakao	" " "	5.65
Otoichi Fujino	" " "	7.00
Mrs. Rose Acantilado	" " "	5.00
Mrs. Mataki Iwamoto	" " "	5.00
Mrs. H. Yano	" " "	5.00
Bernice P. Bishop Estate	Real Property Tax	156.34
Frances Beaumont	Income Tax	36.86
Bebeano Cariaga	Poll Tax	8.53
John A. Robinson	" " "	5.00
Kakuzo Furumizo	" " "	1.06
Mrs. Minnie Pico	" " "	5.00
Mrs. Ine Hanzawa	" " "	5.00
Mrs. Kamato Higa	" " "	5.00
Wm. K. Whittle	" " "	7.54
Harue Sakamoto	" " "	5.00
Eddie Villaro	" " "	5.00
Leon Gaheton	" " "	6.78
Wm. Hano (Alias Wm. Kahoohanohano)	" " "	5.00
Henry Peters	" " "	5.00
Hidero Nakamura	" " "	10.00
Mrs. Nellie Wong	" " "	5.00
Wilhelmina Heu	" " "	5.00
Mrs. Catherine Watkins	" " "	5.00
Mrs. Tsui Fuchikami	" " "	5.00
Solomon Kaiwi	Real Property Tax	3.85
P. E. R. Strauch, Ltd.	" " "	3.10

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[SERIES E-206.—ACT 233.]

Alfred C. Elkington	Income Tax	278.02
Robert Hind, Limited	Personal Property Tax	1,633.31
Estate of Alexander C. Rattray by Cooke Trust Co., Ltd., Admin.	Inheritance Tax	43.06
Edward Laanui	Salary deductions made in error — Olinda Prison Camp	78.00
Theo. H. Davies & Co., Ltd.	Unpaid claims—Oahu Prison	20.73
Hawaii Chemical & Supply Co.	Unpaid claims—Oahu Prison	21.00
Hospital Purveyors, Ltd.	Unpaid Claims—Oahu Prison	3.00
McKesson & Robbins, Inc.	Unpaid Claims—Oahu Prison	23.00
Mackay Radio & Telegraph Co.	Unpaid claims—Bank Examiner	2.04
Mutual Telephone Co.	Unpaid claims—Bank Examiner	9.19
Daniel P. McGregor, Sr.	Reimbursement for amounts paid Fed- eral Government on property shortages— National Guard	89.43
United Service Studio	Labor and material e/c Victor Houston print collection	75.00
Hawaiian Gas Products, Ltd.	Two cylinders destroyed by fire—Washington Intermediate School	85.00
Hawaiian Printing Co., Ltd.	Printing services — Re- tirement System	151.00
L. W. Campos Dairy	Losses incurred during anthrax quarantine —October, 1937	7,022.24
Dr. Kenneth P. Jones	Services as acting gov- ernment physician— Board of Health— July—September, 1938	144.68
Estate of Dr. J. M. Sowers	Services as acting gov- ernment physician— Board of Health— November 1937 to October 1938	755.32
Waiahi Electric Co.	Electric current, Terri- torial Office Build- ing, 1936-1937, Lihue	42.29
H. W. Rice Market	Supplies, Washington Place, May and June, 1937	93.85
Hawaii Brewing Corp.	Damages due to collision with territorial truck	200.00
Mrs. Helene M. Hargrave	Loss in salary on ac- count omission of credit for three years prior service, depart-	

APPROPRIATION FOR PAYMENT OF CLAIMS.

SERIES E-206.—ACT 233.]

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	ment of public in-	
Alvin Kuniyoshi	struction	360.00
Dr. G. K. F. Tyau	Poll Tax	5.00
Mrs. Leta Low	Professional services,	
Mrs. Evelyn Jensen	Tuberculosis Bureau,	
Megumi Nakatani	July, 1937	88.17
Mrs. Hualani H. Rickard	Services, Waimano Home	266.96
(This item is not approved J.B.P.)	" " "	266.96
The Print Shop	Real Property Tax	8.91
Frank Texeira	" " "	737.77
(This item is not approved J.B.P.)	Printing services — Re-	243.17
Annie K. Keawekane	tirement System	
Mary Correa	Excise Tax, 8.70	
Ruddle Sales & Service Company	Real Property Tax 23.51	32.21
Bernard Hose	Real Property Tax	136.15
Joseph H. Kunewa	Travel expenses as mem-	
(This item is not approved J.B.P.)	ber, Hawaii County	
E. A. Taok	Unemployment Com-	
A. J. Spitzer	mission	75.00
Lyons K. Naone	Unpaid claims, 1930-1934	63.80
W. T. Crane	Injuries received in line	
Chris K. Cockett	of duty	21.25
Dr. Koshiro Tofukuji	Pay for vacation not	
S. I. Grossman	granted	484.56
Maurice L. McCluskey	Refund of license to con-	
Charles W. Ashdown	duct a boxing con-	
Charlotte J. Cummings	test in the County	
Harold Stein	of Maui which he	
Harry T. Chang	was forbidden to	
Mrs. Sum See Tam Yau	hold because of a	
Kim Sew Ching	then existing strike	50.00
Henry N. Kaahuanui	Income & Unemploy-	
Jovencio Dafang	ment Relief Tax	40.00
Union Oil Company of	Income Tax	4.27
California	" "	.60
(This item is not approved J.B.P.)	" "	7.29
	" "	2.00
	" "	4.00
	" "	4.77
	" "	4.80
	" "	77.37
	" "	.40
	" "	1.14
	Real Property Tax	54.59
	Poll Tax	5.94
	" "	13.34
	" "	15.00
	Excise Tax	13.95

APPROPRIATION FOR PAYMENT OF CLAIMS.

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[SERIES E-206.—ACT 233.]

McKesson & Robbins	Unpaid claim—Waialee Training School for Boys	5.10
Hurd-Pohlmann Co.	Unpaid claim—Department of Public Works	23.80
Honolulu Paper Co.	Unpaid claim—the Senate, Session of 1937	116.00
Solomon P. Maialoha	Excise Tax	108.21
Chock Look (This item is not approved J.B.P.)	Damages to fishpond, 1935	250.00
Hugh Howell	In full for additional services and expenses in connection with Molokai Water Survey	5,050.65
Montgomery Clark (This item is not approved J.B.P.)	In full for services rendered in dissolving corporations under section 6755, R. L. 1935	180.00
Honolulu Rapid Transit Co.	Damages to Rapid Transit bus, in collision with territorial truck No. 33	258.00
Louis Marciel (This item is not approved J.B.P.)	Extra compensation earned	470.46
von Hamm- Young Co., Ltd. (This item is not approved J.B.P.)	Insurance losses on private car in collision with Board of Agriculture and Forestry automobile	94.63
Marion Redden	In full discharge of any and all claims she may have as result of her suspension and dismissal from service by the Department of Public Instruction, and any failure of said department to reappoint her to service	4,200.00
Chun Chin Quon (This item is not approved J.B.P.)	For personal outlay to repair damage to a civilian car in collision with territorial car No. 167 on May 17, 1938	51.00
C. Q. Yee Hop & Co.	Real Property Tax	2,323.93
Dr. K. B. Hodges (This item is not approved J.B.P.)	Dental Examiners Fee	25.00
	TOTAL	\$ 37,521.97

Section 2. The sums hereinabove appropriated shall be paid upon warrants issued by the territorial auditor upon vouchers approved by the

APPROPRIATION FOR PAYMENT OF CLAIMS.

SERIES E-206.—ACT 233.]

SERIES E-207.—ACT 83.]

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tax commissioner in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said auditor upon vouchers approved by the director of the bureau of the budget as to all other claims.

Section 3. Any amounts so paid which shall represent property taxes overpaid or illegally collected shall constitute an advancement to the county in which such taxes have been collected, and shall be repaid by the treasurer of the territory into the general fund of the territory by retaining the amount from the next collection of such taxes on account of such county and paying the same into said general fund.

Section 4. This Act shall take effect upon its approval.

(Approved except as to items followed by the words: "This item is not approved." May 15, 1939.) **H.B. 300, ACT 233.**

[E-207] An Act for the Relief of the Persons herein named.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Hawaiian Homes Commission is hereby authorized and directed to pay out of any appropriations heretofore made or hereafter to be made for it out of the general revenues of the Territory of Hawaii to each of the following named persons an amount not exceeding the amount set opposite his or her name, to-wit:

Mrs. Lillian May	\$ 25.00
Charles N. Perez	20.00
Joe Puna	26.00
Herman Kelikipi	53.00
D. M. Keliaa	25.00
W. K. Kalaiwaa	12.00
Mrs. Kilakila Kauwe	150.00
Thomas P. Kanoa	120.00
William Akau	175.00
James Spencer	62.00
Mrs. Frank M. Spencer	36.00
George Lindsey	18.25
Abraham Akau	20.00
John Kauwe	10.00
Mrs. Sarah Iokepa	25.00
Akau Akeni	90.00

The payments to be made to said persons are intended to reimburse said persons for expenditures made by them for improvements on certain beach lots at Kawaihae, Hawaii, leases upon which applications had been made by them under the Hawaiian Homes Commission Law, but which said leases, it was later determined, could not lawfully be made.

Section 2. The persons named in section 1, shall, within ninety days after the effective date of this Act, submit to the Hawaiian Homes Commission a sworn statement in writing setting forth in de-

APPROPRIATION FOR PAYMENT OF CLAIMS.

[SERIES E-207.—Act 83.

[SERIES E-208.—Act 190.

[SERIES E-209.—Act 129.

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tail the various items of expenditures made by them, respectively, on account of said improvements. The commission shall thereupon proceed to consider such statements to determine the correctness of the amounts claimed and may require such additional proof as it may deem necessary. Upon determining the correct amounts, the commission shall make the payments herein authorized and directed.

Section 3. All payments herein authorized and directed shall be made by the treasurer of the Territory of Hawaii upon warrants drawn by the auditor based upon vouchers approved by the proper officers of the commission.

Section 4. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 68, Act 83.**

[E-208] An Act for the Relief of Frederick Paishon.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory the sum of one thousand one hundred and fifty-two dollars (\$1,152.00) or so much thereof as may be necessary to pay to Frederick Paishon the sum of \$9.00 per week so long as he shall live, but not exceeding a total of one hundred twenty-eight weeks; provided that no such amount shall be paid to him for any week during which he shall be confined in any prison or jail. Said weekly amounts shall be paid upon warrants of the territorial auditor based upon vouchers approved by the board of prison directors through its chairman, said payments being for injuries sustained by said Frederick Paishon, without fault on his part, while working as a territorial prisoner in Oahu Prison, which injuries caused the entire loss of sight in his left eye and impaired his vision in the other eye.

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1939.) **S.B. 436, Act 190.**

[E-209] An Act Appropriating the Sum of Four Hundred Sixty-one and 60/100 Dollars (\$461.60) for the Relief of Archie S. Kaaua for Vacations Earned But Not Allowed.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory of Hawaii the sum of four hundred sixty-one and 60/100 dollars (\$461.60) for the relief of Archie S. Kaaua for vacations earned but not allowed while in the employ of the department of public works of the territory.

Section 2. The money hereby appropriated shall be paid by the treasurer of the territory upon a warrant issued by the auditor of the territory to Archie S. Kaaua.

Section 3. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **H.B. 230, Act 129.**

APPROPRIATION FOR PAYMENT OF CLAIMS.

SERIES E-210.—ACT 52.]

SERIES E-211.—ACT 46.]

SERIES E-212.—ACT 171.]

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[E-210] An Act to Reimburse the Devisees Under the Will and of the Estate of Rudolph Wilhelm Meyer, Deceased, for Expenses Incurred By Them In Defending Eminent Domain Proceedings Instituted By the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenue of the Territory of Hawaii the sum of four thousand six hundred seventy-six and 96/100 dollars (\$4,676.96) to reimburse Margaret A. Meyer, Marguerite A. Cummins, Alberta I. Janitschke, Annie E. Lishman, Charles W. Meyer, Dorcas K. Cummins, H. Penny Meyer, Victoria M. Akerman, Kalama D. McGuire, Rudolph W. Meyer, Christina M. Tuitele, Mabel M. Chamberlain, Ernest D. Meyer, Elizabeth K. McVeigh, Elizabeth K. Meyer, William A. Meyer, Edith B. Meyer, Henry R. Meyer, Hannah J. Meyer, Otto S. Meyer, Miala S. Meyer, for expenses incurred by them in defending eminent domain proceedings instituted by the Territory of Hawaii in the circuit court of the second judicial circuit, Territory of Hawaii, on January 16, 1929, and numbered special proceeding 1138 in said court.

Section 2. This Act shall take effect upon its approval.

(Became effective April 14, 1939, without the Governor's signature.)
S.B. 70, Act 52.

[E-211] An Act to Appropriate Money for the Payment of Claims of Owners of Land Sold to the Territory of Hawaii Upon Foreclosure of Lien for Sanitary Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of one thousand four hundred and twenty-five dollars (\$1,425.00) is hereby appropriated out of the general revenues of the Territory of Hawaii for payment to the persons entitled to file claims against the territory in accordance with the provisions of section 1337 of the Revised Laws of Hawaii 1935, by virtue of a sale of land to the territory pursuant to a court order for foreclosure of a lien against the land involved in Equity No. 3284, entitled "The Territory of Hawaii, by Lyman H. Bigelow, its superintendent of public works vs. Koloeka Holi Matsu, et al", in the files of the circuit court of the first judicial circuit.

Section 2. The money hereby appropriated shall be expended upon warrants issued by the auditor upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **H.B. 400, Act 46.**

[E-212] An Act Appropriating \$2,783.75 to Reimburse Ichizo Arita.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory for the purpose of reimbursing Ichizo Arita the sum of

APPROPRIATION FOR PAYMENT OF CLAIMS.

[SERIES E-212.—Act 171.

[SERIES E-213.—Act 247.

[SERIES E-214.—Act 191.

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\$2,783.75 paid by him to the commissioner of public lands to cover the first semi-annual rental and costs under a proposed government general lease sold at public auction to him and covering the Kamaee-Wailua government lands on the island of Hawaii.

Section 2. Upon the execution of a sufficient release to the commissioner of public lands by Ichizo Arita the sum hereinabove appropriated shall be paid by the treasurer of the Territory upon warrants issued by the auditor of the Territory based on vouchers approved by the commissioner of public lands.

Section 3. This Act shall take effect upon its approval.

(Approved May 4, 1939.) **S.B. 401, Act 171.**

CITY AND COUNTY OF HONOLULU.

[E-213] An Act Authorizing and Directing the Board of Supervisors of the City and County of Honolulu to Appropriation the Sum of \$438.25 to Reimburse D. O. Mookini for Attorneys' Fees Incurred and Paid By Him In Defending A Civil Suit Brought Against Him as a Result of His Actions in the Line of Duty as a Police Officer.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized and directed to appropriate and pay to D. O. Mookini the sum of \$438.25 to reimburse him for attorneys' fees incurred and paid by him in defending a civil suit for damages brought against him by Edwin F. McGrew, claiming damages as the result of the manner in which the said plaintiff was arrested and detained by the said Mookini in 1930, and in which civil suit the said Mookini was acquitted by a jury.

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1939.) **S.B. 305, Act 247.**

[E-214] An Act Making An Appropriation for Salary Due Frank Bettencourt.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the City and County of Honolulu is hereby authorized and directed to make an appropriation in the sum of three hundred dollars (\$300.00) for payment to Frank Bettencourt for salary due him for services performed by him as a duly appointed police officer of said city and county from January 1, 1930, to March 1, 1930.

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1939.) **H.B. 99, Act 191.**

APPROPRIATION FOR PAYMENT OF CLAIMS.

SERIES E-215.—ACT 192.]
SERIES E-216.—ACT 167.]
SERIES E-217.—ACT 36.]

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[E-215] An Act Making an Appropriation for the Relief of Frank Antone.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the City and County of Honolulu is hereby authorized and directed to make an appropriation in the sum of one thousand one hundred fifty dollars (\$1,150.00) for payment to Frank Antone for salary due him for services performed by him as a duly appointed police officer of said city and county from January 1 to August 21, 1930.

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1939.) **H.B. 229, Act 192.**

[E-216] An Act Authorizing and Directing the Mayor and Board of Supervisors of the City and County of Honolulu to Appropriate Funds for Equipment, Etc., First Circuit Court.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The mayor and board of supervisors of the city and county of Honolulu are hereby authorized and directed to appropriate out of the general funds of the city and county of Honolulu the sum of \$5,000.00 for the purchase of equipment and for the converting of all circuit court records to flat files, not more than \$750.00 of which sum, however, may be used for personal services. The appropriation to be available as required during the 1939-1941 biennium.

Section 2. This Act shall take effect upon its approval.

(Approved May 4, 1939.) **S.B. 408, Act 167.**

HAWAII

[E-217] An Act Authorizing and Empowering the Board of Supervisors of the County of Hawaii to Pay the Claim of Stanley Wilbur.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Board of Supervisors of the County of Hawaii is hereby authorized and empowered to appropriate from any available funds, and pay to Stanley Wilbur, the sum of Two Hundred Forty Dollars (\$240.00) for services rendered by him in transporting school children from their homes over School Route No. 19, East Hawaii, County of Hawaii, during the year 1936.

Section 2. The aforesaid sum shall be paid only upon the execution by the said Stanley Wilbur and delivery to the said Board of a full release of said County from all further liability on account of such claim.

Section 3. This Act shall take effect upon its approval.

(Approved April 4, 1939.) **H.B. 31, Act 36.**

APPROPRIATION FOR PAYMENT OF CLAIMS.

[SERIES E-218.—ACT 53.

[SERIES E-219.—ACT 80.

[SERIES E-220.—ACT 54.]

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KAUAI.

[E-218] An Act Authorizing and Directing the County of Kauai To Pay the Claim of Richard Tongg.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the County of Kauai is hereby authorized, empowered and directed to pay to Richard Tongg out of any moneys available in said county the sum of two hundred dollars (\$200.00) for services performed in making a landscape plan of the county lot of the County of Kauai situate at Lihue, Kauai.

Section 2. This Act shall take effect upon its approval.

(Approved April 14, 1939.) **H.B. 352, Act 53.**

MAUI.

[E-219] An Act to Permit the Board of Supervisors of the County of Maui to Reimburse the General Funds of the County of Maui from the Road Funds of Said County in Such Amounts as May Have Been Expended by the County During the Year 1938 from its General Funds for Purposes Payable from the Road Funds of Said County.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the County of Maui is hereby authorized to reimburse the general funds of the County of Maui from the road funds of said county in such amounts as may have been expended during the year 1938 by the County of Maui from its general funds for purposes payable from the road funds of said county.

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **H.B. 220, Act 80.**

[E-220] An Act Authorizing and Requesting the Board of Supervisors of the County of Maui to Appropriation the Sum of Eight Thousand Dollars (\$8,000.00) for Fire-Fighting Apparatus for Paia, Maui and Kaunakakai, Molokai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the County of Maui is hereby authorized and requested to appropriate the sum of eight thousand dollars (\$8,000.00) for fire-fighting apparatus, as follows:

Paia, Maui	\$4,000.00
Kaunakakai, Molokai	4,000.00

Section 2. This Act shall take effect upon its approval.

(Approved April 14, 1939.) **H.B. 404, Act 54.**

MISCELLANEOUS APPROPRIATIONS.

SERIES E-221.—Act 1.]

SERIES E-222.—Act 2.]

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MISCELLANEOUS APPROPRIATIONS.

[E-221] An Act to Appropriate Money for the Expenses of the Senate of the Territory of Hawaii for the Periods Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory the sum of seventy thousand dollars (\$70,000.00), or so much thereof as is necessary, for the purpose of defraying the expenses of the Senate of the Twentieth Legislature of the Territory of Hawaii for the period commencing February 15, 1939, and ending November 4, 1940.

Section 2. Should there remain any balance of the aforesaid sum of seventy thousand dollars (\$70,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period, either by said Senate or any holdover committee or committees thereof duly authorized by said Senate to act after the close of the regular session of 1939, such balance is hereby appropriated for the purpose of defraying the expenses of any such holdover committee or committees.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved February 21, 1939.) **S.B. 1, Act 1.**

[E-222] An Act to Appropriate Money for Expenses of the House of Representatives of the Territory of Hawaii for the Periods Herein Specified.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of ninety thousand dollars (\$90,000.00) or so much thereof as may be necessary for the purpose of defraying the expenses of the House of Representatives of the Twentieth Legislature of the Territory of Hawaii for the period commencing February 15, 1939, and ending November 5, 1940.

Section 2. Should there remain any balance of the aforesaid sum of ninety thousand dollars (\$90,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period either by said House of Representatives or any holdover committee or committees thereof duly authorized by said House of Representatives to act after the close of the regular session of 1939, such balance is hereby appropriated for the purpose of defraying the expenses of any such holdover committee or committees.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved February 21, 1939.) **H.B. 1, Act 2.**

MISCELLANEOUS APPROPRIATIONS.

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[SERIES E-223.—Act 26.
[SERIES E-224.—Act 42.]

[E-223] An Act to Amend Act 135 of the Session Laws of Hawaii 1937, Relating to Transportation of Certain Persons Released from Oahu Prison.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 135 of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

"Section 1. The sum of Five Thousand Dollars (\$5,000.00) is hereby appropriated from the general fund of the Territory to cover the expenses of transporting to their native lands, any impecunious persons, aliens, or non-citizens of the United States who may be released from Oahu Prison for the purpose of returning or being returned to their native lands."

Section 2. This Act shall take effect upon its approval.

(Approved March 30, 1939.) **H.B. 163, Act 26.**

[E-224] An Act Appropriating the Sum of Thirty-Three Thousand Dollars (\$33,000.00) from the General Revenues of the Territory as an Advancement to the Hawaii Housing Authority, Providing for its Expenditure, and Providing for the Reimbursement of the General Fund of the Territory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated by way of advancement to the Hawaii Housing Authority the sum of thirty-three thousand dollars (\$33,00.00) from the general revenues of the territory not otherwise appropriated, for the following purposes:

(a) Personal services	\$25,000.00
(b) Other current expenses	7,000.00
(c) Equipment	1,000.00

Section 2. Changes and transfers may be made by the chairman of the Hawaii Housing Authority with the approval of the governor within the foregoing schedule of appropriations for any organization unit of said authority as to "Personal services", "Other current expenses" or "Equipment".

Section 3. The moneys hereby appropriated shall be expended on warrants issued by the auditor of the territory upon vouchers approved by the Hawaii Housing Authority.

Section 4. The general revenues of the territory shall be reimbursed in the amount hereby appropriated by way of advancement by the Hawaii Housing Authority from any available federal funds received.

Section 5. This Act shall take effect upon its approval.

(Approved April 11, 1939.) **H.B. 366, Act 42.**

MISCELLANEOUS APPROPRIATIONS.

SERIES E-225.—ACT 44.]

SERIES E-226.—ACT 59.]

SERIES E-227.—ACT 234.]

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[E-225] An Act Appropriating Five Hundred Dollars (\$500.00) for Compiling, Classifying and Indexing the Session Laws of Hawaii 1939.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory the sum of five hundred dollars (\$500.00) for the purpose of employing a person to compile, classify and index the Session Laws of Hawaii 1939, the same to be disbursed upon vouchers approved by the secretary of the Territory.

No person shall be employed for the above purpose unless he has had prior experience in such work as is contemplated by section 2 of the Revised Laws of Hawaii 1935, as amended by Act 10, Series A-3, of the Session Laws of Hawaii 1935, the provisions of which Act shall form the guide for such person as is hereunder employed.

A regular deputy of the attorney general, if otherwise qualified under this Act, shall be eligible to employment, and to receive compensation hereunder, in addition to his regular salary, any existing or subsequently enacted law of the Territory to the contrary notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved April 12, 1939.) **S.B. 300, ACT 44.**

[E-226] An Act to Amend Act 25 of the Session Laws of Hawaii 1937, Relating to the Building and Equipping of a Women's Dormitory at the University of Hawaii, to Provide that the Moneys in a Special Fund Designated "University of Hawaii, Women's Dormitory Fund" be Used to Assist in the Construction of Such Dormitory.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 25 of the Session Laws of Hawaii 1937, is hereby amended by substituting for the words "of constructing" in the second line of said section the following words: "of assisting in the construction of".

Section 2. This Act shall take effect upon its approval.

(Approved April 19, 1939.) **H.B. 420, ACT 59.**

[E-227] An Act to Provide for the Expenses of Transportation and Entertainment Within the Fiscal Year July 1, 1939, to June 30, 1940, of Members of Congress Invited by the Governor and the Delegate from Hawaii to Congress, and for the Disbursement of Money Herein Appropriated.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of five thousand dollars (\$5,000.00) is hereby

MISCELLANEOUS APPROPRIATIONS.

[SERIES E-227.—ACT 234.

[SERIES E-228.—ACT 157.

[SERIES E-229.—ACT 159.

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appropriated out of any moneys in the treasury of the Territory of Hawaii, not otherwise appropriated, for the payment of the expenses of transportation and entertainment of members of the Congress of the United States officially invited to visit Hawaii by the governor and the delegate to Congress from Hawaii.

Section 2. The governor, the delegate and four members of the legislature shall constitute a committee to entertain and provide entertainment for the members of such party within the Territory of Hawaii. Two of the members of the legislature in said committee shall be chosen by the Senate from among its members and two shall be chosen by the House of Representatives from among its members.

Section 3. The governor shall be chairman of such committee.

Section 4. The money hereby appropriated shall be expended upon warrants issued by the auditor of the Territory upon vouchers authorized by the committee and signed by the chairman of such committee.

Section 5. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 428, ACT 234.**

PART 2. SPECIAL AS TO LOCALE.

CITY AND COUNTY OF HONOLULU.

[E-228] An Act Appropriating Any Moneys Received Upon the Sale of Robello School Site for the Acquisition of Land for Playground and School Purposes of a New Robello School.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any moneys received, or which may be received, upon the sale of the site of the present Robello School, situated in the city of Honolulu, are hereby appropriated for the acquisition of land for playground and school purposes of a new Robello School.

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 315, ACT 157.**

[E-229] An Act Appropriating Any Moneys Received Upon the Sale of Waikiki School Site for the Acquisition of Land for Playground and School Purposes of a New Waikiki School.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any moneys received, or which may be received, upon the sale of the site of the present Waikiki School, situated in the City of Honolulu, are hereby appropriated for the acquisition of land for playground and school purposes of a new Waikiki School.

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 490, ACT 159.**

APPROPRIATIONS—HONOLULU.

SERIES E-230.—ACT 162.]

SERIES E-231.—ACT 169.]

SERIES E-232.—ACT 180.]

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[E-230] An Act Fixing Certain Minimum Appropriations to be Made by the Board of Supervisors of the City and County of Honolulu for the Years 1939 and 1940, for Certain of the Purposes Enumerated in the Law Relating to the Special School Fund Budget.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. In each of the years 1939 and 1940, the board of supervisors of the city and county of Honolulu, any provision of section 773 of the Revised Laws of Hawaii 1935 or any other law to the contrary notwithstanding, shall appropriate for new buildings, additions and improvements for schools (whether or not such amount shall have been included in the special school fund budget for such year for such city and county prescribed by said section 773) not less than the sum of \$250,000.00; and shall also appropriate, in each of such years, for all of the purposes specified in items 2 to 7, inclusive, of the form of school budget prescribed by said section 773 (whether or not such amount shall have been included in the special school fund budget for such year for such city and county) not less than the sum of \$600,000.00.

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **S.B. 278, Act 162.**

[E-231] An Act Appropriating Any Moneys Received Upon the Sale of Liliuokalani School Site for the Acquisition of Land for Playground and School Purposes of a New Liliuokalani School.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any moneys received, or which may be received, upon the sale of the site of the present Liliuokalani School, situated in the City of Honolulu, are hereby appropriated for the acquisition of land for playground and school purposes of a new Liliuokalani School.

Section 2. This Act shall take effect upon its approval.

(Approved May 4, 1939.) **H.B. 522, Act 169.**

[E-232] An Act Relating to the Construction of a Sanitary Sewer System in the City and County of Honolulu and Amending Act 210 of the Session Laws of Hawaii 1937.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2 of Act 210 of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

“Sec. 2. The monies realized from such bond issue shall be expended for the construction of main interceptors, sewer pumping stations, trunk lines of diameter of 8 inches or over and the city and county's share of the expenses for the construction and extension of laterals under improvement district assessments for such laterals for a sanitary sewer system within the City of Honolulu, except, however, the City and County of Honolulu is authorized to expend the usual

APPROPRIATIONS—HONOLULU—HAWAII.

[SERIES E-232.—Act 180.

[SERIES E-233.—Act 202.

[SERIES E-234.—Act 27.

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pro rata cost paid by the government under sewer improvement assessments in the development of a sewer system for lands under control of the Hawaiian homes commission in Auwaiolimu, Kewalo and Kalawahine, without going through the process necessary to establish a sewer improvement district."

Section 2. This Act shall take effect upon its approval.

(Approved May 6, 1939.) **H.B. 484, Act 180.**

[E-233] An Act Making an Appropriation of Fifteen Thousand Dollars (\$15,000.00) for Construction of a Club House at the Ala Wai Golf Course, and Providing for Its Repayment.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of fifteen thousand dollars (\$15,000.00) is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, for the construction of a club house at the Ala Wai golf course.

Section 2. Said moneys shall be expended upon warrants issued by the auditor upon vouchers approved by the fair commission of Hawaii, and the superintendent of public works.

Section 3. The money herein appropriated shall only be spent for surveys and plans sufficient to make application to the public works administration, the works progress administration or other federal agency to secure matching funds. In the event that matching funds are secured, the remainder of this appropriation shall be available as the territory's share of the cost of construction and inspection of said club house.

Section 4. The fair commission of Hawaii shall make sufficient charges and fees for the use of the facilities under its control to reimburse the territorial treasurer in an amount of two thousand five hundred dollars (\$2,500.00) per year for six years without interest. The first payment shall be made on a date one year from the completion of construction and acceptance by the territory of the building. The above annual payment shall be a first lien upon all the receipts of the fair commission.

Section 5. This Act shall take effect upon its approval.

(Approved May 11, 1939.) **H.B. 480, Act 202.**

HAWAII.

[E-234] An Act Authorizing and Empowering the Board of Supervisors of the County of Hawaii to Make an Appropriation in the Sum of One Thousand Dollars (\$1,000.00) for Extension of Pipeline in Kiolokaa-Keaa Homesteads, District of Kau, County of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Hawaii is hereby authorized and empowered to appropriate the sum of one

APPROPRIATIONS—HAWAII.

SERIES E-234.—ACT 27.]

SERIES E-235.—ACT 43.]

SERIES E-236.—ACT 118.]

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thousand dollars (\$1,000.00) from the general fund of the county of Hawaii for the purpose of extending the pipe line along the road to the southern boundary of Lot 9-D in Kiolokaa-Keaa homesteads, in the district of Kau, county of Hawaii.

Section 2. This Act shall take effect upon its approval.

(Approved March 31, 1939.) **H.B. 98, ACT 27.**

[E-235] An Act Authorizing the Division of Hydrography of the Territory of Hawaii to Conduct a Survey of the Water Resources of the District of Kona, Island of Hawaii, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The division of hydrography of the Territory of Hawaii is hereby authorized and directed to make, or cause to be made, a survey of the water resources available for present use, and which may be developed in the district of Kona, Island and Territory of Hawaii, and to prepare and keep on file in its office, for public inspection and reference, any and all maps, plans, findings and recommendations which shall be made as a result of such survey.

Section 2. There is hereby appropriated out of the general fund of the Territory of Hawaii the sum of \$1,000.00, conditional upon the appropriation of a like amount by the County of Hawaii, which amounts together with such assistance as may be secured from the U. S. Geological Survey, shall be used for exploratory drilling and/or investigations, in connection with the project herein authorized and with the investigations of the ground water resources of the Territory of Hawaii; said sums so appropriated to be used by the division of hydrography of the Territory of Hawaii for the purchase of materials, employment of personnel, and such other expenses as the work may require; provided, however, that if public employees, and/or engineers, not otherwise engaged at the time said survey is made, are directed by said division of hydrography to conduct such survey, they shall receive no remuneration for their services rendered in the said work, except the regular salaries paid them by the Territory of Hawaii as such public employees and/or engineers.

Section 3. This Act shall take effect upon its approval.

(Approved April 11, 1939.) **H.B. 132, ACT 43.**

[E-236] An Act Making an Appropriation for the Transporting, Guarding, Housing and Maintaining of Territorial Prisoners Detailed to the County of Hawaii, and for the Purchase of Tools and Appliances for Use by Said Prisoners on the Waiakea Airport, Hilo, Hawaii, and/or Other Public Projects in the District of South Hilo, Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Appropriation for public projects; South Hilo. The sum of ten thousand dollars (\$10,000.00) is hereby appropriated out of any

APPROPRIATIONS—HAWAII.

[SERIES E-236.—ACT 118.

[SERIES E-237.—ACT 161.

[SERIES E-238.—ACT 163.

moneys in the treasury of the Territory of Hawaii not otherwise appropriated, to cover expenses for transporting, guarding, housing and maintaining such territorial prisoners as may be detailed to the county of Hawaii pursuant to section 6436 of the Revised Laws of Hawaii 1935, for the maintenance and improvement of Waiakea Airport; the improvement of Wailoa River Park Grounds, new site for Puumale Home, and any other public project or work in any other place in the district of South Hilo, county of Hawaii, as may be agreed upon by the board of prison directors and the board of supervisors of the county of Hawaii. Provided, that all unexpended moneys made available by Act 147, Session Laws of 1937, Series E-208, shall be available for the purposes of this Act.

Section 2. All expenditures shall be made upon vouchers approved by the chairman of the board of prison directors.

Section 3. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **S.B. 142, Act 118.**

[E-237] An Act Authorizing and Empowering the Board of Supervisors of the County of Hawaii to Appropriation Five Thousand Dollars (\$5,000.00) for the Construction of a School Building and a Teachers' Cottage at Kawaihae, South Kohala, Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Hawaii is hereby authorized and empowered to appropriate from the general funds of said county, the sum of five thousand dollars (\$5,000.00), or so much thereof as may be necessary, for the construction of a school building and a teachers' cottage at Kawaihae, South Kohala, Hawaii.

Section 2. The moneys hereby authorized and empowered to be appropriated shall only be expended after the site for such school building and teachers' cottage and the plans for the construction of the same shall first have been approved by the superintendent of public instruction of the Territory.

Section 3. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **S.B. 123, Act 161.**

[E-238] An Act to Appropriation Funds for Land for a New Site for the Hilo Public Library.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of fourteen thousand dollars (\$14,000.00), or as much thereof as may be necessary, is hereby appropriated out of the general revenues of the territory, not otherwise appropriated, for the acquisition by the territory, of land on Waianuenue Avenue, in Hilo, County of Hawaii, for a new site for the Hilo Public Library.

Section 2. The total purchase price of the land shall not exceed fourteen thousand dollars (\$14,000.00) in any event and the exact price

APPROPRIATIONS--HAWAII.

SERIES E-238.—ACT 163.]

SERIES E-239.—ACT 228.]

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to be paid for the land shall be determined by the territorial board of appraisers for the County of Hawaii.

Section 3. The money thus appropriated shall be expended upon warrants drawn by the auditor of the territory upon vouchers approved by the land commissioner of the Territory of Hawaii.

Section 4. This Act shall take effect upon its approval.

(Approved May 3, 1939.) **H.B. 408, ACT 163.**

[E-239] An Act Appropriating Certain Unexpended Balances for Specific Homestead Roads on the Island of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of one hundred thousand nine hundred and twenty-four dollars (\$100,924.00) is hereby appropriated from any unencumbered balances in the following road fund accounts for the purpose of constructing homestead roads in the County of Hawaii:

Account No.	Account Name
S-4150	Homestead Roads, Hawaii
S-4151	Waiakea Residence Lots Roads
S-4152	Piihonua House Lots Roads
S-4154	Lele'wi House Lots Roads
S-4155	Waimea House Lots Roads
S-4157	Keokea House Lots Roads
S-4163	Kahauloa House Lots Roads
S-4161	Ponahawai-Kaumana House Lots Roads
S-4166	Olaa Summer Lots Roads

Section 2. The total sum appropriated in section 1 shall be allotted for the construction of roads which shall be designed by the board of supervisors of the County of Hawaii and approved by the Commissioner of Public Lands of the Territory and allotted as follows:

West Hawaii:

Puuuanahulu Homestead Road (N. Kona)	\$ 2,000.00
Kahauloa House Lots Road (S. Kona)	2,000.00
Wood Valley House Lots Road (Kau)	8,000.00
Waimea Homestead Roads (S. Kohala)	5,000.00
Kaauuhuhu Homestead Roads (N. Kohala)	5,000.00
Kaauuhuhu Homestead Roads towards Kennersley Road (N. Kohala)	16,000.00

Total—West Hawaii \$ 38,000.00

East Hawaii:

Kaleie Homestead Road—beginning at Lot 32 and running through Lots 28 and 29 (S. Hilo)	\$ 5,962.00
Puuainako Waiakea Homestead Road Extension, beginning at Camp 2 (S. Hilo)	4,500.00
Waiakea Homestead Extension Road from Camp 8 running mauka (S. Hilo)	9,000.00
Extension of Kaumana-Ponahawai Road to Piihonua Road (S. Hilo)	14,000.00
Piha-Kahuku Homestead Road (N. Hilo)	12,000.00

APPROPRIATIONS—HAWAII.

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[SERIES E-240.—ACT 232.]

Kaimu Road, Puna (Hawaii)	6,000.00
Reconstruction of the Upper Kaapahau Road, Hamakua, Hawaii	7,462.00
Palai Waiakea Homestead Road, Hilo	4,000.00
Total—East Hawaii	\$ 62,924.00
Grand Total	\$100,924.00

Section 3. Said sum of one hundred thousand nine hundred twenty-four dollars (\$100,924.00) hereby appropriated shall be disbursed on warrants drawn by the auditor, based upon vouchers approved by the Commissioner of Public Lands.

Section 4. In the event that the total of the unencumbered balances in the funds enumerated in section 1 is not sufficient to meet the allotments specified in section 2, any deficiency shall be made up from the first future receipts of the territory from sales of land in the County of Hawaii.

Section 5. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 166, ACT 228.**

[E-240] An Act Authorizing the County of Hawaii to Issue Bonds for Certain Public Improvements and Authorizing Advances from and Reinbursement to the General Fund of the County for Such Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The county of Hawaii is hereby authorized and empowered to issue, pursuant to and in accordance with chapter 267 of the Revised Laws of Hawaii 1935, bonds in the sum of four hundred seventy thousand dollars (\$470,000.00); said bonds to be serial bonds maturing in substantially equal annual installments, the first installment to mature in five years from the date of issue of such series, and the last installment not later than thirty years from such date of issue; provided that in the event House Bill No. 402 of the present session of the legislature shall become law and shall provide for an appropriation for Puumaila Home, the amount of bonds hereby authorized to be issued shall be reduced by the amount of one hundred thousand dollars (\$100,000.00), and the item of section 2 of this Act providing for said Puumaila Home shall become null and void.

Section 2. The moneys realized from the bond issue shall be expended for the following specific purposes in said county of Hawaii:

Puumaila Home. Completion of present home. Utilizing so far as is consistent with reasonable safety, the materials and equipment from the old Puumaila Home,	\$100,000.00
Flood control. Flood control system in Waiakea Homestead areas and Waiakea house lots, second series. (Kapiolani tract)	215,000.00
Hilo Memorial Hospital. New wing and equipment	125,000.00
Flood control. City of Hilo	30,000.00
Hamakua Water Works—Extension and improvements.....	30,000.00
Acquiring of land, new buildings, improvements and equipment, Kohala High and Grammar School	80,000.00

APPROPRIATIONS—HAWAII—KAUAI.

SERIES E-240.—ACT 232.]

SERIES E-241.—ACT 63.]

SERIES E-242.—ACT 38.]

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Section 3. The county of Hawaii may advance moneys from its general funds for such improvements prior to the sale of the bonds herein provided for and upon such sale reimburse such general fund for the advances so made.

Section 4. In case the amount specified in any item in section 2 shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said item, be expended for the work specified in any of the other items.

Section 5. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 536, Act 232.**

KAUAI.

[E-241] An Act to Amend Act 106, Session Laws of Hawaii 1931, as Amended, by Amending Sections 1 and 2 Thereof, Authorizing the County of Kauai to Issue Bonds for Public Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 106 of the Session Laws of Hawaii 1931, as amended by Act 55 of the Second Special Session Laws of Hawaii 1932, and as further amended by Act 4 (Series E-236) of the Session Laws of Hawaii 1937, is hereby further amended by adding thereto a new paragraph to read as follows:

“The sums of money to be expended as hereinabove specified shall not be expended for reconditioning, repairs and/or maintenance, or the construction of sidewalks or footpaths.”

Section 2. Section 2 of Act 106 of the Session Laws of Hawaii 1931, is hereby amended to read as follows:

“Section 2. Belt road defined. For the purpose of this Act, the Kauai Belt Road shall be known as that road beginning at the Kekaha Post Office, passing through the villages of Waimea, Eleele, Koloa, Lihue, Kapaa and ending at the Hanalei Post Office. It shall include that road generally known as the Nawiliwili Loop Road, and also that road generally referred to as the McBryde Mill Road.”

Section 3. This Act shall take effect upon its approval.

(Approved April 19, 1939.) **H.B. 305, Act 63.**

[E-242] An Act to Amend Act 186, Session Laws of Hawaii 1937, Authorizing the County of Kauai to Issue Bonds for Public Improvements by Adding a New Section Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 186 of the Session Laws of Hawaii 1937, is hereby amended by adding a new section thereto, to be designated as Section 6-A, which shall read as follows:

“Section 6-A. The board of supervisors of the county of Kauai is hereby authorized to advance a sum not in excess of fifty thousand

APPROPRIATIONS—KAUAI.

[SERIES E-242.—ACT 38.

[SERIES E-243.—ACT 64.

[SERIES E-244.—ACT 68.

dollars (\$50,000.00) from any or all available funds realized from the sale of bonds issued and sold pursuant to the provisions of said Act for the construction of new buildings and additions, Samuel Mahelona Memorial Hospital at Kapaa, Kauai. The sum so advanced shall be reimbursed to the loan fund from which said advance was made, within one year from the time of such advancement, and shall constitute a paramount charge on all moneys in the general and permanent improvement funds of the county during the calendar year of such required reimbursement."

Section 2. This Act shall take effect upon its approval.

(Approved April 8, 1939.) **H.B. 41, ACT 38.**

[E-243] An Act to Amend Act 186 (Series E-237) of the Session Laws of Hawaii 1937, by Amending Sections 1 and 2 Thereof, Authorizing the County of Kauai to Issue Bonds for Public Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 186 (Series E-237) of the Session Laws of Hawaii 1937, is hereby amended by substituting for the words and figures therein reading:

"Roads and bridges, Kauai Belt Road \$ 250,000.00
New school buildings 100,000.00
Water works, installations, extensions and/or improvements 50,000.00"
the following words and figures, to-wit:
"Roads and bridges, Kauai Belt Road \$ 200,000.00
Flood control, Haapepe 50,000.00
New school buildings 50,000.00
Water works, installations, extensions and/or improvements 100,000.00"
and by adding thereto a new paragraph to read as follows:

"The sum of money to be expended as hereinabove specified shall not be expended for reconditioning, repairs and/or maintenance, or the construction of sidewalks or footpaths."

Section 2. Section 2 of Act 186 (Series E-237) of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

"Section 2. Belt road defined. For the purpose of this Act, the Kauai Belt Road shall be known as that road beginning at the Kekaha Post Office, passing through the villages of Waimea, Eleele, Koloa, Lihue, Kapaa and ending at the Hanalei Post Office. It shall include that road generally known as the Nawiliwili Loop Road, and also that road generally referred to as the McBryde Mill Road."

Section 3. This Act shall take effect upon its approval.

(Approved April 19, 1939.) **H.B. 306, ACT 64.**

[E-244] An Act Authorizing and Directing the Division of Hydrography to Conduct a Survey of the Water Resources of the District

APPROPRIATIONS—KAUAI.

SERIES E-244.—ACT 68.]
SERIES E-245.—ACT 148.]
SERIES E-246.—ACT 173.]

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Covering the Kalaheo, Lawai and Omao Homesteads, Kauai, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The division of hydrography of the Territory of Hawaii is hereby authorized and directed to prepare plans and estimates for an irrigation system to deliver sufficient water for truck farming and for other commercial purposes, and which may be developed for said uses, in the district covering the Kalaheo, Lawai and Omao Homesteads, Kauai, and to prepare and keep on file in its office, for public inspection and reference, any and all maps, plans, findings and recommendations which shall be made as a result of such survey.

Section 2. There is hereby appropriated, out of the general fund of the Territory of Hawaii, the sum of one thousand five hundred dollars (\$1,500.00), to be used in conjunction with funds, personnel and equipment provided by the United States geological survey by the division of hydrography to carry out the project herein authorized; said sum so appropriated to be used for the purchase of materials, employment of private engineers, and such other expenses as the work may require; provided, however, that if public employees and/or engineers, not otherwise engaged at the time said survey is made, are directed by said division of hydrography to conduct said survey, they shall receive no remuneration for their services rendered in the said work, except the regular salaries paid them by the Territory of Hawaii as such public employees and/or engineers.

Section 3. This Act shall take effect upon its approval.

(Approved April 20, 1939.) **H.B. 250, ACT 68.**

[E-245] An Act to Authorize, Empower and Direct the Board of Supervisors of the County of Kauai to Appropriation the Sum of Five Thousand Dollars (\$5,000.00) from the Personal Property Tax Fund for the Year 1939 for the Purchase of Additional Lands for, Relocation of Public Road to, and the Construction of New Buildings for the Agricultural Department of Eleele Public School, Eleele, Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Kauai is hereby authorized, empowered and directed to appropriate the sum of five thousand dollars (\$5,000.00) from the personal property tax fund for the year 1939 for the purchase of additional lands for the Eleele Public School at Eleele, Kauai, and for the relocation of the public road to said school and the construction of new buildings for the agricultural department of said school, including the cost of tearing down and/or removing certain buildings now used by said department.

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **S.B. 299, ACT 148.**

[E-246] An Act Authorizing the Board of Supervisors of the County of Kauai to Appropriation the Sum of Three Thousand

APPROPRIATIONS—KAUAI—MAUI.

[SERIES E-246.—Act 173.

[SERIES E-247.—Act 259.

[SERIES E-248.—Act 120.

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Dollars (\$3,000.00) for the Construction of a Drainage Ditch Along the Makai Side of the Anahola Park, District of Kawaihau, Island of Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Kauai is hereby authorized and empowered to appropriate the sum of three thousand dollars (\$3,000.00) from the general fund or permanent improvement fund, or both, of said county, for the construction of a drainage ditch along the makai side of the Anahole Park, District of Kawaihau, island of Kauai.

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1939.) **S.B. 430, Act 173.**

[E-247] An Act Appropriating Three Thousand Dollars (\$3,000.00) for the Improvement and Extension of the Wailua Rice and Kula Lands Drainage Ditch, Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of three thousand dollars (\$3,000.00), or as much thereof as may be necessary, is hereby appropriated from moneys that may now be available, or that may become available in the future from the proceeds of sales of public lands on the island of Kauai, for the improvement and extension of the drainage ditch through the Wailua Rice and kula lands at Wailua, Kauai.

Section 2. The aforesaid sum, or as much thereof as may be necessary, shall be disbursed by the treasurer upon warrants drawn by the auditor, based upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved May 17, 1939.) **S.B. 358, Act 259.**

MAUI.

[E-248] An Act Making an Appropriation to Cover Expenses of Transporting, Guarding and Maintaining Territorial Prisoners Detailed to the County of Maui for Combating the Gorse Plant (Common Furze), for the Building and Maintenance of a Road to the Kula Pipeline and Water Heads, for Exploration for and Development of Additional Water, and for Reforestation of Territorial Lands Adjacent to Olinda Prison Camp.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of seven thousand five hundred dollars (\$7,500.00) is hereby appropriated from the general fund of the Territory not otherwise appropriated, expendable on vouchers approved by the chairman of the board of prison directors, to cover expenses

STATEHOOD PLEBISCITE.

SERIES E-248.—ACT 120.]

SERIES E-249.—ACT 243.]

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of transporting, guarding and maintaining territorial prisoners detailed to the county of Maui for combating the gorse plant (common furze), for the building and maintenance of a road to the Kula pipeline and water heads, for the exploration for and development of additional water, and for reforestation.

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1939.) **S.B. 208, ACT 120.**

MISCELLANEOUS ACTS.

PLEBISCITE ON STATEHOOD.

[**E-249**] An Act to Provide for a Plebiscite at the General Election of 1940 Upon the Question of Statehood for Hawaii, to Prescribe the Method and Manner of Submitting Said Question to Such Voters and of Voting, Counting, Declaring and Tabulating Votes Upon Such Question, and to Prescribe Penalties for Violation of Provisions Relating Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Proclamation, contents thereof. The election proclamation for the general election to be held on the Tuesday next after the first Monday of November in the year 1940, issued pursuant to the provisions of section 7640 of the Revised Laws of Hawaii 1935, shall include therein a statement that the question "Do you favor statehood for Hawaii?" will be submitted on a ballot, to be voted on at said general election in the manner provided by this Act.

Section 2. Persons entitled to vote. Each legal voter entitled to vote under the provisions of the Hawaiian Organic Act and chapter 250, Revised Laws of Hawaii 1935, as amended, at the general election mentioned in section 1 of this Act shall be entitled to vote on the question of statehood for Hawaii as hereinafter by this Act provided.

Section 3. Ballot boxes. In addition to the ballot boxes provided under section 7672 of said Revised Laws, as amended, the secretary of the Territory shall provide a suitable ballot box for each polling place for the depositing of ballots on the question of statehood for Hawaii. Such boxes shall be marked in plain letters "Statehood Plebiscite", and shall bear no other device or mark. Except as otherwise provided in this section, the said boxes shall be of the same character, material, dimensions and arrangement as those described in said section 7672, as amended.

Section 4. Ballot on statehood. In addition to any other ballot or ballots by law provided, there shall be, at the general election mentioned in section 1 of this Act, a ballot, issued by the secretary of the Territory which shall be of a color and size substantially different from any other ballot to be used in said general election. The size, weight, shape and thickness of the ballot shall be determined by the secretary of the Territory. Said ballot shall be printed in the English and Hawaiian languages, and shall be in substantially the following form:

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[SERIES E-249.—ACT 243.]

O F F I C I A L B A L L O T
BALOTA KAUOHAIA
GENERAL ELECTION
KOHO LAULA
TUESDAY, NOVEMBER 5th, 1940
POALUA, NOVEMABA 5, 1940
STATEHOOD FOR HAWAII
MOKUAINA NO HAWAII

If you favor Statehood for Hawaii make a **X** with a black lead pencil in the space under "YES". If you are against Statehood, make a **X** in the space under "NO".

Ina e makemake oe e lilo o Hawaii i Mokuaina e hana i kahapea (**X**) me ka penikala elele iloko o ke kowa malalo o ka "AE". Ina e kue oe i ka lilo ana i Mokuaina, e hana i kahapea (**X**) iloko o ke kowa malalo o ka "AOLE".

Do you favor Statehood for Hawaii?

Makemake anei oe e lilo o Hawaii i Mokuaina?

YES Ae	NO Aole

Such ballot shall bear no word, motto, device, sign or symbol other than hereinabove in this section prescribed. It shall be so printed that the type shall not show a trace on the back.

There shall be two non-contiguous rectangular spaces, enclosed within ruled lines, immediately to the right and opposite the question "Do you favor Statehood for Hawaii?". Such spaces shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner in this Act provided. The rectangular spaces shall have the headings "YES" and "NO" printed, respectively, therein, as set forth in the form of ballot hereinabove prescribed.

Section 5. Delivery of ballot to voter. When any duly qualified voter shall offer to vote, the chairman of inspectors shall deliver to such voter, in addition to any other ballot or ballots by law provided, the ballot prescribed by section 4 of this Act. Such ballot shall be folded in the manner specified in section 7686 of said Revised Laws. The inspectors of election may, and upon request shall, explain to any duly qualified voter the mode and manner of voting.

Section 6. Method of marking ballot. A voter shall designate his choice on the question "Do you favor Statehood for Hawaii?" by marking a cross (**X**) with a black lead pencil in the rectangular space on the ballot: (a) beneath the word "YES", if he favors statehood; and (b) beneath the word "NO", if he does not favor statehood.

Section 7. Depositing of ballots. Subject to the provisions of section 7689 of said Revised Laws, and other provisions of law by this Act made applicable, all ballots delivered to registered voters under the provisions of this Act and by them, after marking the same, delivered to the inspector of election in charge of the ballot boxes, shall be dropped and deposited by such inspector of election into the ballot box marked "Statehood Plebiscite".

Section 8. Order of counting. The ballots cast under this Act shall be counted after all other ballots have been counted.

Section 9. Rejected ballots. Any ballot shall be rejected:

1. If on such ballot a cross (X) shall be marked in more than one of the two rectangular spaces opposite said question.
2. If any such ballot contains any mark or symbol contrary to the provisions hereof; or
3. If two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person; or
4. If such ballot in any other way be contrary to the provisions of this Act.

Each ballot which shall be held to be invalid as aforesaid shall be endorsed on the back by the chairman of inspectors, with his name, and word "rejected".

Section 10. Counting of votes on question. In counting the votes on said question, if the rectangular space beneath the word "YES" is marked on a ballot in the manner prescribed by this Act, the word "YES" shall be read in a loud clear voice by one of the inspectors; or if the rectangular space beneath the word "NO" is marked on a ballot in the manner prescribed by this Act, the word "NO" shall be read in a loud clear voice by one of the inspectors. A record of the marking on each ballot shall be made at once as each ballot is so read by one of the inspectors; provided, however that if neither of said two rectangular spaces is marked on the ballot, the inspector reading the ballot shall so indicate in a loud clear voice and such lack of mark shall also be recorded.

Section 11. Declaration of result. When the inspectors shall have ascertained the total number of votes cast on the question specified in section 4 of this Act, the number of ballots marked in the rectangular space beneath the word "YES", the number of ballots marked in the rectangular space beneath the word "NO", and the number of ballots in which neither of said spaces is marked, they shall make public declaration of the whole number of votes cast on said question, the number voting "YES", the number voting "NO", the number not voting on said question, and the number of ballots rejected.

The chairman of inspectors shall cause a full record to be made of the same in the inspectors' record book, and one copy of such result shall be sent to the secretary of the Territory.

Section 12. Records. In lieu of the description provided in the second paragraph of section 7704 of said Revised Laws, the inspectors shall mark on the outside of the packets therein mentioned the name and title of the secretary of the Territory and a description of the contents thereof substantially as follows, viz: "Record of statehood plebiscite for November 5, 1940, representative district number _____ polling precinct number Island of " and immediately forward the same to the secretary of the Territory.

Section 13. Result, certified copy to legislature. Immediately upon receiving the returns of election from the several boards of election inspectors of any election district, the secretary of the Territory shall immediately tabulate the returns, and ascertain the result of the plebiscite in such district. The secretary shall then immediately

tabulate the returns for all districts. Upon tabulation of the returns and ascertainment of the results of the votes on the question specified in section 4 of this Act, the secretary of the Territory shall forthwith publicly announce such results on said question and shall forward to the next session of the legislature a certified copy of the record of such result, setting forth the total number of votes cast, the number voting "YES", the number voting "NO", the number not voting on said question, and the number of ballots rejected.

Section 14. Other laws made applicable. All of the provisions of chapter 250 of said Revised Laws, as amended, not inapplicable and not inconsistent with the provisions of this Act, relating to proclamations, registration of voters, voters, electors, lists of electors, powers and duties of the clerk of each county, transmittal of lists of electors, boards of registration, powers of boards of registration, appeals from boards of registration, inspectors of election, clerks, duties and powers of boards of inspectors, election precincts, polling places, voting compartments at polling places, ballots, printing and distributing of ballots, cards of instruction, conduct of election, hours of voting, admission within polling places, soldiers at polls, procedure upon opening polls, method of folding ballots, method of voting, voting, secrecy of ballot, removing or exhibiting ballot, assistance of disabled voters, spoiled ballots, voting by absentees, voters in military service, counting ballots, method of counting ballots, count, tabulation of returns, records, disposition of records, duties of secretary of Hawaii and/or expenses, are hereby made applicable to this Act, the plebiscite held hereunder and the submission of the question specified in section 4 hereof to the voters of the Territory of Hawaii. For the purposes of this Act, the term "ballot" as used in said chapter 250, as amended, shall mean and include, in addition to the definition contained in said chapter, a written or printed or partly written and partly printed paper containing the matters and things prescribed by section 4 to appear on the ballot in said section mentioned.

Section 15. Misdemeanor. Whoever shall, directly or indirectly, personally or through another, give, procure or lend, or agree or offer to give, procure or lend, or who shall endeavor to procure any money or office or place of employment or service or benefit or any other valuable consideration to or for any voter, or to or for any person for a voter, or to or for any person in order to influence or induce any other person to vote or refrain from voting or to vote "YES" or "NO" on the question specified in section 4 of this Act, or who shall do any such act on account of any person having voted or refrained from voting on such question, and whoever shall, before, during or after said election, directly or indirectly, personally or through another, receive, agree or contract for any money, gift, loan, office, place of employment, service, benefit or any other valuable consideration for himself, or any other person, for voting or agreeing to vote, or for refraining from voting or agreeing to refrain from voting, or for voting "YES" or "NO" on such question, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both fine and imprisonment.

Section 16. This Act shall take effect upon its approval.

(Approved May 16, 1939.) **S.B. 107, ACT 243.**

REPRESENTATIVE DISTRICTS.

[E-250] An Act Providing for the Division of the Territory of Hawaii Into Representative Districts for Representation In the House of Representatives of the Legislature of the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. For the purpose of representation in the House of Representatives of the Legislature of the Territory of Hawaii, the Territory of Hawaii, the territory is divided into the following representative districts, namely:

First district: That portion of the Island of Hawaii known as Puna, Hilo and Hamakua.

Second district: That portion of the Island of Hawaii known as Kau, Kona and Kohala.

Third district: The Islands of Maui, Molokai, Lanai and Kahoolawe.

Fourth district: That portion of Honolulu, Island of Oahu, lying east and south of Nuuanu Avenue and its extension to the Nuuanu Pali and that portion of the district of Koolaupoko, Island of Oahu, lying east and south of the ridge between the lands of Kailua and Kaneohe and thence to Kapoho Point in Kailua Bay.

Fifth district: The remaining portion of the City and County of Honolulu.

Sixth district: The Islands of Kauai and Niihau.

Section 2. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 455, Act 224.**

CLOSED SEASON ON CERTAIN BIRDS.

[E-251] An Act Relating to Birds and Deer.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. For a period of two years from July 1, 1939, it shall be unlawful to take, kill, destroy or have in possession any migratory wild duck, plover, snipe, turnstone, curlew, stilt, mudhen, Hawaiian hawk and Hawaiian crow.

Section 2. All laws or parts of laws inconsistent with this Act are hereby suspended during the effective period of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1939.) **S.B. 175, Act 197.**

KAMEHAMEHA DAY CELEBRATION COMMISSION.

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[SERIES E-252.—Act 227.]

KAMEHAMEHA DAY CELEBRATION COMMISSION.

[E-252] An Act Creating a Commission to be Known as the Kamehameha Day Celebration Commission, Providing for Its Appointment, and Making an Appropriation for the Expenses of Such Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby created a commission to be known as the Kamehameha Day Celebration Commission, which shall consist of twenty-one members to be appointed by the governor in the manner provided by section 80 of the Organic Act, such appointment to be made from the following organizations:

(1) From the Order of Kamehameha on Oahu, the chairman and two other members, Hawaii one, Maui one, Molokai one and Kauai one;

- (2) From the Kaahumanu Society, one;
- (3) From the Hale o na Alii o Hawaii, one;
- (4) From the Sons and Daughters of Hawaiian Warriors, one;
- (5) From the Daughters of Hawaii, one;
- (6) From the Kamehameha Alumnae Association, one;
- (7) From the Kamehameha Alumni Association, one;
- (8) From the Hawaiian Civic Club, one;
- (9) From the Hawaiian Lei Sellers' Association, one;
- (10) From the Hale Hoonaauao Hawaii, one;
- (11) From the Kapahulu Music Club, one;
- (12) From the Hawaiian Homes Commission, two;
- (13) From the Native Sons and Daughters of Hawaii, two; and the terms of all such appointments shall be four years.

The members of said Kamehameha Day Celebration Commission shall serve without compensation and without allowance for expense. The funds herein appropriated for the purposes hereof shall be disbursed on warrants of the territorial auditor, based on vouchers approved by the chairman of said Kamehameha Day Celebration Commission.

Said Kamehameha Day Celebration Commission shall have charge of all arrangements for the celebration each year of the eleventh day of June, generally observed throughout Hawaii Nei as the anniversary of the birth of King Kamehameha I, and recognized as such under our territorial statute. Said commission may appoint committees from among its membership and delegate such powers and duties to such committees as it shall determine.

Section 2. There is hereby appropriated from the general revenues of the territory the sum of eight thousand dollars (\$8,000.00), which is hereby allotted to cover expenses of said celebrations, said allotments to be made in the following manner:

(1) For Oahu	\$4,000.00
(2) For Hawaii	1,300.00
(3) For Maui	1,150.00
(4) For Molokai	400.00
(5) For Kauai	1,150.00
Total	\$8,000.00

SPECIAL ACTS.

SERIES E-252.—ACT 227.]

SERIES E-253.—ACT 262.]

SERIES E-254.—ACT 4.]

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The amount herein appropriated and allotted in the above manner shall cover all expenditures of said Kamehameha Day celebration of June eleventh 1939 and 1940.

Section 3. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 379, ACT 227.**

SPECIAL WAIVER, RETIREMENT SYSTEM.

[E-253] An Act to Waive the Provisions of the Territorial Employees' Retirement Act Requiring Retirement at the Age of Seventy Years, as to Doctor James T. Wayson and as to William K. Rathburn.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The provisions of the territorial employees' retirement Act, requiring retirement at the age of seventy (70) years, are hereby waived in their application to Doctor James T. Wayson and William K. Rathburn.

Section 2. This Act shall take effect upon its approval.

(Approved May 17, 1939.) **S.B. 328, ACT 262.**

AFFECTING CITY AND COUNTY OF HONOLULU.

[E-254] An Act to Qualify and Make Eligible for Investment Certain Board of Water Supply of the City and County of Honolulu Bonds Purchased by the Employees' Retirement System of the Territory of Hawaii.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Anything contained in Section 6819, Revised Laws of Hawaii 1935, to the contrary notwithstanding, the following bonds heretofore purchased by the Employees' Retirement System of the Territory of Hawaii are hereby made eligible for investment by it, namely:

1. \$27,000.00 par value, Board of Water Supply of the City and County of Honolulu Revenue 4% Bonds, issue November first, 1935, maturing 1951 to 1958.

2. \$171,000.00 par value, Board of Water Supply of the City and County of Honolulu Revenue 4% Bonds, issue August fifteenth 1938, maturing 1946 to 1968.

Section 2. This Act shall take effect upon its approval

(Approved March 9, 1939.) **H.B. 84, ACT 4.**

SPECIAL ACTS.

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[SERIES E-255.—ACT 72.
[SERIES E-256.—ACT 115.

[E-255] An Act Ratifying and Confirming Expenditures Made by the City and County of Honolulu Out of the Sanitary Sewerage Bond Fund for the Installation of a Sanitary Sewerage System In Wahiawa District of the City and County of Honolulu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All expenditures made by the city and county of Honolulu out of the sanitary sewerage bond fund created under the provisions of Act 210 (E-222) of the Session Laws of Hawaii 1937, for the installation of a sanitary sewerage system in the district of Wahiawa, city and county of Honolulu, are hereby ratified and confirmed.

Section 2. This Act, however, shall not be construed as authorizing the city and county of Honolulu to make any further expenditures out of the said sanitary sewerage bond fund for projects beyond the geographical limits of the city of Honolulu.

Section 3. This Act shall take effect upon its approval.

(Approved April 22, 1939.) **S.B. 226, Act 72.**

[E-256] An Act to Extend for the Year 1939 the Time for the Submission of County Budgets for Taxation Purposes as Required By Sections 1921 and 2102 of the Revised Laws of Hawaii 1935, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The time for the submission of county (including the city and county of Honolulu) budgets for taxation purposes as required by section 1921, or section 2102, or both, as amended, of the Revised Laws of Hawaii 1935, is hereby extended for the year 1939 from March 31st to May 15th, 1939, and any county budget submitted before May 15, 1939, may be amended on or before said date in the manner provided by said section 1921. Any act required by said sections 1921 and 2102, or either of them, as amended by any other Act (including any other Act enacted at the present session of the legislature, or any extension thereof, whether enacted before or after this Act becomes law), to be performed on or before any specified date prior to June 20, 1939, by any officer or other person specified in said sections 1921 and 2102, or either of them, as so amended, shall be valid if performed after such specified date but before June 20, 1939, any other provisions to the contrary in said sections 1921 and 2102, or either of them, as so amended, or in any other law, to the contrary notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved April 27, 1939.) **H.B. 437, Act 115.**

SPECIAL ACTS.

SERIES E-257.—ACT 204.]

SERIES E-258.—ACT 229.]

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[E-257] An Act to Ratify, Confirm and Validate Certain Improvement Projects Including Projects Undertaken in Conjunction with the Works Progress Administration and Any Other Federal Agency.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All expenditures heretofore made by the city and county of Honolulu for the purchase of lands, materials, equipment and supplies in connection with improvement projects heretofore undertaken in the district of Honolulu, city and county of Honolulu, and all such expenditures required hereafter to be made for projects now in progress, to-wit, Kalihi-uka Road, Ala Moana Boulevard, Gulick Avenue, in conjunction with the Works Progress Administration or any other federal agency or instrumentality, are hereby ratified, confirmed and validated, any provision or provisions in chapter 92 of the Revised Laws of Hawaii 1935 to the contrary notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved May 12, 1939.) **S.B. 445, Act 204.**

[E-258] An Act to Ratify the Actions of the Park Board of the City and County of Honolulu with Respect to the Hauling of Soil from Makiki Valley to Various Parks, and to Authorize Payment of Claims Therefor, and to Authorize the Completion of the Work with Respect Thereto.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The informal contract between the park board of the City and County of Honolulu and one H. T. Okada, heretofore entered into for the hauling of soil from Makiki Valley to various parks in said city and county, for the following unit prices, namely:

To Ala Moana Park.....	38¢ per cubic yard;
To Ala Wai Boathouse Grounds (Ala Wai Park)....	38¢ per cubic yard;
To Kapiolani Park.....	44¢ per cubic yard;
To Pearl City Ball Park.....	81¢ per cubic yard;

is hereby ratified and confirmed, and the auditor of the Territory of Hawaii is hereby authorized and directed to issue warrants payable out of the moneys in the fund designated as "T-78087" in the territorial treasury, upon vouchers approved by the park board, for all such hauling heretofore performed by said H. T. Okada at said unit prices and not yet paid for.

Section 2. This Act shall take effect upon its approval.

(Approved May 15, 1939.) **H.B. 505, Act 229.**

FRANCHISES.

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[SERIES E-259.—ACT 65.
[SERIES E-260.—ACT 214.]

FRANCHISES.

[E-259] An Act to Amend Act 29 of the Session Laws of Hawaii 1929, Granting to J. K. Lota and Associates a Franchise for Electric Light, Current and Power in Hanalei, Kauai, by Including Moloaa Within Said Franchise.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 29 of the Session Laws of Hawaii 1929, as the same is set forth on pages 1253 to 1256 of the Revised Laws of Hawaii 1935, is hereby amended:

(a) By deleting from the tenth line of section 1 thereof the words "in Hanalei" and

(b) By inserting the words "and at Moloaa" after the word "Hanalei" in the eleventh and twenty-fourth lines of said section 1, in the sixth line of section 3 and in the nineteenth line of section 11.

Section 2. This Act shall take effect on its approval by the Congress of the United States.

(Approved April 20, 1939.) **H.B. 94, ACT 65.**

[E-260] An Act to Amend Act 105 of the Session Laws of Hawaii 1921, Granting Franchise for the Manufacture, Maintenance, Distribution and Supply of Electric Current for Light and Power Within Kapaa and Waipouli in the District of Kawaihau on the Island and County of Kauai, by Including Within Said Franchise the Entire District of Kawaihau, Island of Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 105 of the Session Laws of Hawaii 1921 is hereby amended in the following respects:

a. By deleting the words "Kapaa and Waipouli, in" from the title thereof; and

b. By substituting the words "district of Kawaihau" for the words "Districts of Kapaa and Waipouli" as they appear in line 8 and lines 18 and 19 of section 1, and in line 5 of section 3, and in line 15 of section 11.

Section 2. This Act shall take effect upon its approval by the Congress of the United States of America.

(Approved May 12, 1939.) **S.B. 416, ACT 214.**

REPEALING ACTS.

SERIES E-261.—ACT 23.]
SERIES E-262.—ACT 45.]
SERIES E-263.—ACT 126.]
SERIES E-264.—ACT 146.]

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REPEALING ACTS.

[E-261] An Act to Repeal Joint Resolution No. 7 of the Regular Session of 1935, Relating to the Bureau of Leisure Activities and Self-Help.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Joint Resolution No. 7 of the Regular Session of 1935 of the Legislature of the Territory, relating to the Bureau of Leisure Activities and Self-help, is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved March 30, 1939.) **H.B. 56, Act 23.**

[E-262] An Act to Repeal Act 202, Series E-186, of the Session Laws of Hawaii 1935 and Act 154, Series E-213, of the Session Laws of Hawaii 1937, Relating to the Hawaii Jubilee Commission.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Hawaii Jubilee Commission is hereby abolished and Act 202, Series E-186, of the Session Laws of Hawaii 1935 and Act 154, Series E-213, of the Session Laws of Hawaii 1937, are hereby repealed.

Section 2. All unexpended moneys heretofore appropriated by any Act for the use of or expenditure by said commission are hereby lapsed into the general fund of the territory.

Section 3. This Act shall take effect upon its approval.

(Approved April 13, 1939.) **H.B. 54, Act 45.**

[E-263] An Act to Repeal Act 36 (Series C-106) of the Session Laws of Hawaii 1937, Relating to Marriage Licenses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 36 (Series C-106) of the Session Laws of Hawaii 1937 is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1939.) **S.B. 412, Act 126.**

[E-264] An Act to Repeal Act 69 of the Session Laws of Hawaii 1933, as Amended by Act 31, Series E-204, of the Session Laws of Hawaii 1935, and to Lapse Into the Territorial General Fund All of the Unexpended and Unencumbered Balance of the Funds Thereby Appropriated.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 69 of the Session Laws of Hawaii 1933, as amended by Act 31, Series E-204, of the Session Laws of Hawaii 1935, is hereby

JOINT RESOLUTIONS.

[SERIES E-264.—ACT 146.

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[J.R. 1]

repealed, and all of the unexpended and unencumbered balance of the funds thereby appropriated is hereby lapsed into the territorial general fund.

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1939.) **S.B. 403, ACT 146.**

JOINT RESOLUTIONS.

J.R. 1

Joint Resolution Memorializing the Congress of the United States of America to Provide for the Issuance, by the Immigration and Naturalization Service of the United States Department of Labor, of Certificates of Citizenship to All Persons Residing in the Territory of Hawaii Who Are Citizens of the United States and Who Apply for Such Certificates and Present Due Proof of Such Citizenship.

WHEREAS, through the cooperation of the Immigration and Naturalization Service of the United States Department of Labor, provision has been made in Subdivision E of Rule 11 of the Immigration Rules and Regulations for the issuance of certificates of citizenship to citizens of the United States who are bona fide residents of the Territory of Hawaii; and

WHEREAS, said Subdivision E of Rule 11 requires that the applicants for such certificates of citizenship must show that they actually intend to depart temporarily from the Territory of Hawaii, and the officers of the Immigration and Naturalization Service, acting under said Rule 11, refuse to issue such certificates or to investigate claims of citizenship unless the applicants show to the satisfaction of the Immigration and Naturalization Service that they are about to travel to continental United States or other parts of the world; and

WHEREAS, such certificates are not issued unless the applicants contemplate such travel, and there is danger in the case of such citizens as are not contemplating immediate travel, that the necessary proof of their birth in the Hawaiian Islands, or other facts necessary to establish their citizenship in the United States, will be lost by death or removal from the Territory of Hawaii of witnesses who can testify to such facts or otherwise; and

WHEREAS, the certification of the citizenship, upon due application and proof being made therefor, is a matter of vital importance to the young citizens of Oriental ancestry in the Territory of Hawaii, and if provided for will tend to produce greater security and satisfaction in such citizenship and will tend to create better and more loyal citizens of the United States; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be and it is hereby urgently requested to provide by appropriate and adequate legislation for the issuance of certificates of citizenship of all persons residing in the Territory of Hawaii who are citizens of the United States and who apply for such certificates to the Immigration and Naturalization Service of the United States Department of Labor

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J.R. 1]

J.R. 2]

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and furnish due proof of such citizenship, regardless of the intention on the part of such applicants to travel or not to travel in the immediate future.

Section 2. That duly authenticated copies of this Joint Resolution be transmitted to the Delegate to Congress from Hawaii, the Secretary of the Interior and the Secretary of Labor of the United States, and each of the two Houses of the Congress of the United States of America.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved March 30, 1939.) **H.J.R. 1.**

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J.R. 2.

Joint Resolution Memorializing the Congress of the United States of America to Provide the Funds Specifically Designated by Various Acts of Congress to Be Appropriated for the More Complete Endowment and Maintenance of the Agricultural Experiment Station of the Territory of Hawaii.

WHEREAS, the Hawaii Act of 1928 (45 Stat. L. 571) states that "The Territory of Hawaii shall be entitled to share in the benefits" of the Hatch Act (24 Stat. L. 440), the Adams Act (34 Stat. L. 63) and the Purnell Act (43 Stat. L. 970) which authorize that certain appropriations for the more complete endowment of agricultural experiment stations be made; and

WHEREAS, the amounts authorized and those actually appropriated have been as follows:

Year.	Purnell			Total Amount			
	Hatch	Adams	Author- ized	Appropri- ated	Author- ized	Appropri- ated	Difference.
1930	\$15,000	-----	-----	-----	\$15,000.	\$15,000.	-----
1931	15,000	5,000	-----	-----	20,000.	20,000.	-----
1932	15,000	7,000	-----	-----	22,000.	22,000.	-----
1933	15,000	9,000	-----	-----	24,000.	24,000.	-----
1934	15,000	11,000	-----	-----	26,000.	26,000.	-----
1935	15,000	13,000	-----	-----	28,000.	28,000.	-----
1936	15,000	15,000	-----	-----	30,000.	30,000.	-----
1937	15,000	15,000	20,000.	20,000.	50,000.	50,000.	-----
1938	15,000	15,000	30,000.	20,000.	60,000.	50,000.	10,000.
1939	15,000	15,000	40,000.	25,000.	70,000.	55,000.	15,000.
1940	15,000	15,000	50,000.	25,000.	*80,000.	55,000.	*25,000.

* Amounts recommended by House appropriations committee. The sum of \$60,000. only was presented to Congress in the President's budget, which was \$20,000 less than the law stipulates.

and

WHEREAS, the schedule of appropriations as set up in the Hawaii Act (45 Stat. L. 571) was exactly followed from 1930 to 1937, inclusive, when the total annual appropriation reached \$50,000; and

WHEREAS, the appropriations from 1938 to the present have not been increased by \$10,000 annually as specified in the several acts extended to the Hawaii experiment station by the Hawaii Act; and

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[J.R. 2

WHEREAS, the Hawaii agricultural experiment station is provided with the technical staff, land, buildings, laboratories and other facilities for conducting agricultural research in the manner stipulated in the several acts of Congress; and

WHEREAS, the Territory is in 1939 appropriating 65% per the total experiment station budget, which total and proportion are both greater than those which 18 or more of the states appropriate to their experiment stations; and

WHEREAS, the work in progress by the Hawaii agricultural experiment station is extremely important in the Territory from many standpoints, especially:

- (a) the development of a better balanced and economically stable diversified agriculture;
- (b) the development of gardening and truck crop farming in relation to civilian and military subsistence;
- (c) the utilization and value of naturally occurring or new food and feed crops or local by-products in human and animal nutrition;
- (d) the maintenance and improvement of soil fertility;
- (e) the breeding and development of varieties of important food and feed crops; and
- (f) 67 projects along these and other related lines are under investigation by the experiment station; and

WHEREAS, the above funds are anticipated and expected, inasmuch as they are being received by each of the states, many of which have no better qualifications for using them and in many of which the value and importance of agricultural industries is less than in the Territory of Hawaii; and

WHEREAS, owing to isolation, the agricultural problems in the Territory may at any time become a matter of territorial or even of national defense; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be, and it hereby is, urgently requested to give careful consideration to the facts hereinbefore set forth and to increase the appropriation to the Hawaii experiment station in accordance with the schedule set up in said Hawaii Act which specifies \$80,000 in 1940, and \$90,000 in 1941.

Section 2. That duly authenticated copies of this Joint Resolution be forwarded to the President, to the Secretary of the Interior, and to each of the two houses of the Congress of the United States, and to the Delegate to the Congress from Hawaii.

(Approved April 19, 1939.) **S.J.R. 23.**

JOINT RESOLUTIONS.

J.R. 3]

J.R. 4]

J.R. 5]

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J.R. 3

Joint Resolution Relating to the Granting of Extensions for Compliance With Certain Special Sale Agreements for Houselots.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioner of public lands of the Territory is hereby requested and, insofar as lies within the power of the legislature, directed, to grant no further extensions of time to the holders of any houselots under special sale agreements for compliance with any of the terms of said agreements, except upon good cause therefor shown to his satisfaction; and, in any event, henceforth to grant no more than one such extension to any one person and for no period in excess of three years.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved April 22, 1939.) **S.J.R. 6.**

J.R. 4

Joint Resolution Directing the Territorial Planning Board to Prepare a Master Plan for Needed and Future Public School Sites and for the Presentation of Such Master Plan to the 1941 Legislature.

WHEREAS, there has never been prepared a comprehensive plan for public school sites needed for the present and future schools throughout the territory; and

WHEREAS, the policy has been to locate these sites only after the need exists for a public school and often on sites that have been built up and improved, thus necessitating high costs for land and damages; and

WHEREAS, reasonable planning for these sites can obviate the expensive procedure; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The territorial planning board is hereby authorized and directed to prepare a master plan for present and future public school sites throughout the territory, or as much of such plan as its finances permit, and to report and submit such findings to the 1941 legislature of the Territory of Hawaii for such action as may be deemed advisable.

Section 2. This Joint Resolution shall take effect from and after the date of its approval.

(Approved April 26, 1939.) **H.J.R. 25.**

J.R. 5

Joint Resolution Appropriating Any Balance of Funds Received Upon Dissolution of the Hawaii Rural Rehabilitation Corporation, Limited, Into a Special Contingent Fund for Work Relief.

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WHEREAS, on the 16th day of November 1934, the Hawaii Rural Rehabilitation Corporation, Limited, was incorporated for purposes of rural rehabilitation in the territory and for the receipt of grants of money and financial and other aid from the federal and territorial relief administrations and other sources; and

WHEREAS, said corporation is about to dissolve and said corporation designs to turn over the balance of its funds to the territory; now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. All balance of funds received on dissolution of the Hawaii Rural Rehabilitation Corporation, Limited, when and if received, shall be, and is hereby, appropriated for a special contingent fund for the governor of Hawaii to be expended by him when and if, in his discretion, he shall determine that the need exists for work relief, and the method of such expenditure and the administration of such work relief shall be as the governor of the Territory of Hawaii shall direct.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 1, 1939.) **H.J.R. 31.**

J.R. 6

Joint Resolution Requesting Congress to Ratify and Confirm Act 58 of the Session Laws of Hawaii 1939, Further Amending Act 174 of the Session Laws of Hawaii 1935, as Amended by Act 23 of the Session Laws of Hawaii 1937, by Extending the Time Within Which Revenue Bonds May be Issued and Delivered.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby respectfully requested to ratify and confirm Act 58 of the Session Laws of Hawaii 1939, further amending Act 174 of the Session Laws of Hawaii 1935, as amended by Act 23 of the Session Laws of Hawaii 1937, by extending the time within which revenue bonds may be issued and delivered to June 30, 1941.

Section 2. This Joint Resolution shall, upon its approval, be forwarded to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to the Delegate to Congress from the Territory of Hawaii.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 3, 1939.) **H.J.R. 12.**

J.R. 7

Joint Resolution Requesting the Congress of the United States to Amend Sections 203 (4), 204 (4), 207 (1), 208 (3), 209 (1), 215 (2), 220 and 224 of the Hawaiian Homes Commission Act of 1920.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby requested to amend section 203 (4) of the Hawaiian Homes Commission Act of 1920, so that the first course describing "(1) Portion of the government land at Auwaiolimu, Punchbowl Hill, Honolulu, Oahu," of the available lands on the Island of Oahu will read as follows:

"1. One hundred and sixty-three degrees thirty-one minutes two hundred and thirty-eight and eight-tenths feet along the east side of Punchbowl-Makiki Road;".

Section 2. The Congress of the United States is hereby requested to amend section 204 of the Hawaiian Homes Commission Act of 1920, by adding a new subsection to read as follows:

"Section 204 (4). The commission, with the approval of the governor, is authorized to exchange lands under its control of not to exceed 40 acres for territorial lands in any one transaction."

Section 3. The Congress of the United States is hereby requested to amend section 207 (1) (a) of the Hawaiian Homes Commission Act of 1920, so that it will read as follows:

"Section 207 (1) (a). The commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not less than one nor more than 40 acres of agricultural lands; or (2) not less than 100 nor more than 500 acres of first-class pastoral lands; or (3) not less than 250 nor more than 1,000 acres of second-class pastoral lands; or (4) not more than one acre of any class of land to be used as a residence lot provided, however, that in the case of any existing lease of a farm lot in the Kalanianaole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the lessee concerned, and provided, further that a lease granted to any lessee may include both a residence and an agricultural or pastoral lot, the gross acreage of both lots not to exceed the maximum acreage of either the agricultural or pastoral lot, as the case may be, and as provided for in this section; and provided, further, that any such detached residence lot shall be located on the same island as the agricultural or pastoral lot concerned, and within a reasonable distance thereof."

Section 4. The Congress of the United States is hereby requested to amend section 207 (1) of the Hawaiian Homes Commission Act of 1920, as amended, by deleting therefrom the following:

"The commission is also authorized to grant licenses for terms of not to exceed twenty-one years in each case, to public utilities companies or corporations as easements for railroads, telephone lines, electric power and light lines, gas mains and the like,"

and substituting the following:

"Section 207 (2). The commission is also authorized, with the approval of the governor, to grant perpetual licenses to the United States,

the Territory of Hawaii and any of its subdivisions or agencies for reservations, airports, sites for public schools and other territorial or county buildings and activities, public roads and ways, water development, water storage and distribution facilities and other utilities of a public nature; and to grant licenses for terms of not to exceed twenty-one years in each case to companies, corporations and persons, as easements for roads, railroads, telephone lines, electric power and light lines, water pipe lines and appurtenances, gas mains, and other utilities; provided, that such license or licenses shall not restrict the areas required by the commission in carrying on its duties, nor interfere in any way with the commission's operation or maintenance activities."

Section 5. The Congress of the United States is hereby requested to amend section 208 (3) of the Hawaiian Homes Commission Act of 1920, to read as follows:

"Section 208 (3). The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made. The lessee of a farm lot shall plant and maintain not less than 5, 10, 15 and 20 trees per acre of land leased, and the lessee of a pastoral lot shall plant and maintain not less than 2, 3, 4 and 5 trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the commission and at locations specified by the commission's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the commission free of charge."

Section 6. The Congress of the United States is hereby requested to amend section 209 (1) of the Hawaiian Homes Commission Act of 1920 so that it will read as follows:

"Section 209 (1). Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relations of the decedent as provided in this paragraph. From the following relatives of the lessee,—husband and wife, children, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of brothers and sisters, or nieces and nephews,—the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Hawaiian home lands, provided, however, that Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under the provisions of section 3, public document No. 227 in the 73rd Congress, approved May 16, 1934. And provided further, that such person or persons need not be twenty-one years of age. Such designation must be in writing, filed with the commission and approved by the commission, in order to be effective to vest such interests in the successor or successors so named.

In the absence of such a designation as approved by the commission, the commission shall select from the relatives of the lessee, as limited by the foregoing paragraph, one or more persons who are qualified to be lessees of Hawaiian home lands, except that such person or persons need not be twenty-one years of age, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so

selected. The commission may select such a successor or successors after the death of the lessee and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the commission is authorized to lease such land to a native Hawaiian or Hawaiians as provided in this Act.

Upon the death of a lessee or the cancellation of a lease by the commission, the commission shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the commission, or for taxes, or for any other indebtedness the payment of which has been assured by the commission, from the deceased lessee or the previous lessee; provided, that if such cancellation is due to the voluntary abandonment or surrender of the tract by the previous lessee no such appraisal and payment shall be made by the commission.

Such appraisal shall be made by three appraisers, one of which shall be named by the commission, one by the previous lessee or the legal representative of his estate, and the third shall be selected by the two appraisers hereinbefore mentioned."

Section 7. The Congress of the United States is hereby requested to amend section 215 (2) of the Hawaiian Homes Commission Act of 1920 to read as follows:

"Section 215 (2). Whenever the commission shall determine that a lessee is delinquent in the payment of his indebtedness to the commission it may require such lessee to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such lessee, including the indebtedness to others the payment of which has been assured by the commission, of all moneys due or to become due to such lessee by reason of any agreement or contract, collective or otherwise, to which the lessee is a party by virtue of his interest in the tract. Failure to execute such an assignment when requested by the commission shall be sufficient ground for cancellation of the lessee's lease or interest therein."

Section 8. The Congress of the United States is hereby requested to amend section 220 of the Hawaiian Homes Commission Act of 1920 to read as follows:

"Section 220. The commission is authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands, and to undertake other activities having to do with the economic and social welfare of the homesteaders. The legislature of the Territory is authorized to appropriate out of the treasury of the Territory such sums as it considers necessary to augment the Hawaiian Home Loan Fund established by section 213 of this Act, as it considers necessary for administration and maintenance activities of the commission, and for executing the projects and activities hereinabove referred to.

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The legislature is further authorized to issue bonds to the extent required to yield the amount of any sum so appropriated. The commission shall pay from the Hawaiian Home Loan Fund into the treasury of the Territory:

(1) Upon the date when any interest payment becomes due upon any bond so issued, the amount of the interest then due; and

(2) Commencing with the first such date more than one year subsequent to the issuance of any bond and at each interest date thereafter, an amount such that the aggregate of all such amounts which become payable during the term of the bond, compounded annually at the rate of interest specified therein, shall equal the par value of the bond at the expiration of its term."

Section 9. The Congress of the United States is hereby requested to amend section 224 of the Hawaiian Homes Commission Act of 1920 to read as follows:

"Section 224. The Secretary of the Interior shall designate from his department some one experienced in sanitation, rehabilitation and reclamation work to reside in the Territory of Hawaii and cooperate with the commission in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the Hawaiian Homes Commission while he is carrying on his duties in the Territory of Hawaii, which salary, however, shall not exceed the sum of \$6,000.00 per annum, provided, that this office shall be terminated June 30, 1939."

Section 10. This Joint Resolution shall, upon its approval, be forwarded to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to the Delegate to Congress from the Territory of Hawaii.

(Approved May 17, 1939.) **S.J.R. 19.**

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