

SESSION LAWS
OF
HAWAII
PASSED BY THE
EIGHTH STATE LEGISLATURE

REGULAR SESSION
1976

Convened on Wednesday, January 21

and

Adjourned Sine Die on Tuesday, April 20

Published by Authority of the
Revisor of Statutes
Honolulu, Hawaii

AUTHORITY

Section 2-4, Hawaii Revised Statutes, provides as follows:

Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

PREFACE

This volume contains all the laws passed by the Legislature at the Regular Session of 1976.

In preparing this volume, the text of the original laws and proposals has been followed, with the exception of palpable typographical errors.

HIDEHIKO UYENOYAMA
Revisor of Statutes

Honolulu, Hawaii
August 5, 1976

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UNITED STATES CONGRESS

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Daniel K. Inouye

House of Representatives:

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Patsy T. Mink

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REGULAR SESSION
1976
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Patricia Saiki (R)

Eighth District—(Kauai, Niihau)

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D—Democrats 18

R—Republicans 7

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D—Democrats	36
R—Republicans	15

TABLE OF CONTENTS

	PAGE
List of Acts	viii
Text of Acts	1
Tables Showing Effect of Acts:	
A. Sections of Hawaii Revised Statutes Affected	770
B. Session Laws of Hawaii Affected	774
C. Sections of Hawaiian Homes Commission Act of 1920 Affected.....	774
General Index	775

LIST OF ACTS
EIGHTH STATE LEGISLATURE
REGULAR SESSION OF 1976

ACT	BILL	SUBJECT	PAGE
1	S.B. 1893-76	Appropriations—legislature, legislative agencies	1
2	S.B. 1771-76	Constitutional Convention	3
3	H.B. 1086	Intoxicating liquors—sale on election days	3
4	S.B. 2885-76	Land use—district boundaries; special use permits	4
5	H.B. 449	Motor vehicle driver licensing	7
6	H.B. 1994-76	Real property tax—home exemption	8
7	S.B. 2094-76	Eminent domain—disposal of excess property	9
8	S.B. 2231-76	Kula Hospital	10
9	H.B. 2247-76	Civil service—exemptions	11
10	H.B. 2374-76	Public utilities—rates, charges	13
11	H.B. 2319-76	High-voltage power transmission lines	16
12	H.B. 2216-76	Remnants of public lands	16
13	H.B. 2632-76	Collective bargaining	17
14	H.B. 3106-76	Manpower planning administrator	18
15	H.B. 3213-76	Professional boxing corporations	18
16	S.B. 2526-76	Adoption—consent	20
17	S.B. 1819-76	Workers' compensation	21
18	S.B. 1836-76	Department of regulatory agencies	22
19	S.B. 1862-76	University of Hawaii	23
20	H.B. 1185	Disclosure by liquid fuel distributors	24
21	H.B. 2090-76	State militia—counsel to defend	25
22	H.B. 2155-76	State general obligation bonds	25
23	H.B. 2165-76	Hawaiian Homes Commission Act	26
24	H.B. 2168-76	Hawaiian Homes Commission Act	27
25	H.B. 2194-76	Prepaid health care	28
26	H.B. 2533-76	Day care centers	31
27	H.B. 2880-76	State environmental policy	31
28	H.B. 2895-76	Law school facilities—appropriation	32
29	H.B. 3013-76	Adult family boarding homes and care homes	33
30	S.B. 251	Medical research, morbidity and mortality information	35
31	S.B. 1553	Hawaii Food, Drug and Cosmetic Act— imitation food	35
32	S.B. 1780-76	Consumer sales	32
33	S.B. 1785-76	Violations of injunctive orders	43
34	S.B. 2024-76	Sabbatical leaves	44
35	S.B. 2027-76	Reallocation	45
36	S.B. 2028-76	Pay of employees on active military service	46
37	S.B. 2095-76	Oahu Metropolitan Planning Organization	47
38	S.B. 2140-76	Estimate for motor vehicle repair	47
39	S.B. 2230-76	Liquor tax law	48
40	S.B. 2235-76	Secondary school students conference	49
41	S.B. 2330-76	Public Employment Relations Board	49
42	S.B. 2654-76	Beds for indigent maternity patients repealed	51
43	S.B. 2884-76	State Land Use Commission—executive officer	51
44	S.B. 1169	Penalties—traffic violations	52
45	S.B. 1328	Odometers	53
46	S.B. 1623	Sex bias in schools	57
47	S.B. 1798-76	State Tort Liability Act	57
48	S.B. 1807-76	Conversion of exempt Department of Defense positions into civil service	58

ACT	BILL	SUBJECT	PAGE
49	S.B. 1809-76	Agents of private schools	59
50	S.B. 1825-76	Special land and development fund	60
51	S.B. 1831-76	Vacations of public officers and employees	61
52	S.B. 1854-76	School buses	62
53	S.B. 1855-76	Driver's license categories	63
54	S.B. 2031-76	Holidays	64
55	S.B. 2080-76	Records of Liquor Commission	65
56	S.B. 2105-76	Circuit courts	65
57	S.B. 2545-76	Conservation	66
58	S.B. 2933-76	Hawaii Youth Correctional Facility	68
59	S.B. 110	Department of Health—Leahi Hospital	70
60	S.B. 243	Income taxes—elimination of exemption	73
61	S.B. 849	Public officers and employees—transfers	74
62	S.B. 1667	Increments for public employees	74
63	S.B. 1949-76	Policy planning	75
64	S.B. 2092-76	Shoreline setbacks	76
65	S.B. 2107-76	Law clerks for Supreme Court	77
66	S.B. 2929-76	Industrial loan licenses	80
67	H.B. 24	Student financial aid	81
68	H.B. 2170-76	County hospital management advisory committees	83
69	H.B. 2236-76	Real property taxes	84
70	H.B. 2377-76	Fishing vessel loan programs	84
71	H.B. 2593-76	Foreclosure of real property tax liens	88
72	H.B. 2717-76	Hawaiian Homes Commission Act	89
73	H.B. 3112-76	Public assistance	98
74	H.B. 3239-76	Electric guns	100
75	S.B. 1512	Marketing Order Revolving Fund	100
76	S.B. 1561	Licensure qualifications of attorneys	101
77	S.B. 1784-76	Residential Landlord and Tenant Code	101
78	S.B. 1820-76	Prepaid Health Care Act	102
79	S.B. 1832-76	Civil service and exemptions	102
80	S.B. 1838-76	Hawaii Motor Vehicle Accident Reparations Act	105
81	S.B. 2225-76	Prepaid health care	109
82	S.B. 2321-76	Judiciary	110
83	S.B. 2334-76	Investigators of Department of Social Services and Housing	111
84	S.B. 2519-76	Safe drinking water	112
85	S.B. 2527-76	Family court	117
86	S.B. 2572-76	Short term investment of county moneys	130
87	S.B. 2703-76	Intoxicating liquors	131
88	H.B. 2136-76	Expenditure of public money and public contracts	136
89	H.B. 2812-76	Exemption from minimum wage law	137
90	H.B. 2130-76	Residential Landlord-Tenant Code	139
91	H.B. 2131-76	Vehicles left unattended on private property	144
92	S.B. 75	Hawaii Paroling Authority	145
93	S.B. 2333-76	Revolving funds for correctional facility stores	149
94	H.B. 2127-76	Investigations by Office of Consumer Protection	149
95	H.B. 2171-76	Hawaii Occupational Safety and Health Act	150
96	H.B. 2224-76	Audited statements of industrial loan companies	159
97	H.B. 2230-76	Fees applicable to practicing psychologists	160
98	H.B. 2231-76	Fees for certain professional and vocational licenses	160
99	H.B. 2235-76	Prison contraband	161
100	H.B. 2891-76	Notice of hearings of boards and commissions	162
101	H.B. 2892-76	Escrow depositories	162
102	H.B. 3107-76	Hotel reservations	163
103	H.B. 3110-76	Industrial loan companies	165

ACT	BILL	SUBJECT	PAGE
104	S.B. 2909-76	Historic preservation	172
105	S.B. 1191	Improvements by assessments	179
106	H.B. 2135-76	Elections	180
107	H.B. 2137-76	Expenditure of public money and public contracts	190
108	H.B. 2169-76	Smoking in public places	190
109	H.B. 3020-76	School personnel	191
110	H.B. 3109-76	Membership on Board of Acupuncture	192
111	S.B. 1786-76	Restitution in consumer protection cases	193
112	S.B. 1801-76	Criminal injuries compensation	193
113	S.B. 1998-76	Status of convicted persons	202
114	S.B. 2224-76	Motor vehicle accident reparations	204
115	S.B. 2797-76	Improvements at Waikiki	204
116	H.B. 2151-76	Expungement of arrest records	205
117	H.B. 2159-76	Petty cash funds	206
118	H.B. 2160-76	Stadiums	206
119	H.B. 2161-76	State bonds	207
120	H.B. 2167-76	Sanitation and reclamation expert under Hawaiian Homes Commission Act	207
121	H.B. 2220-76	Hawaii Capital Loan Program	208
122	H.B. 2227-76	Motor carrier law	209
123	H.B. 2246-76	Exemption of Campus Center Special Fund	209
124	H.B. 2375-76	Director of Regulatory Agencies as Consumer Advocate before Public Utilities Commission	210
125	H.B. 2718-76	Capital improvement projects for Department of Hawaiian Home Lands	212
126	H.B. 2722-76	Hawaii Employment Security Law	218
127	H.B. 2782-76	Campaign contributions and expenditures	218
128	H.B. 3099-76	Intake Service Center Advisory Board	227
129	S.B. 525	Cancer control—fraudulent cures	228
130	S.B. 2709-76	Mental health	229
131	S.B. 528	Litigation expenses for indigent criminal defendants	238
132	S.B. 1187	Hawaii Dental Education Plan—establishment	239
133	S.B. 2139-76	Interim Tourism Policy Act	241
134	S.B. 2745-76	State employment program	245
135	S.B. 2932-76	District courts	247
136	H.B. 116	Exemptions from attachment and execution	248
137	H.B. 626	Preventing litter from trucks	252
138	H.B. 846	Marriage licenses	253
139	H.B. 942	Bonus to pensioners	254
140	H.B. 1411	Separation	256
141	H.B. 2022-76	Establishment of state policy for senior centers	257
142	H.B. 2239-76	Public money and public contracts	258
143	H.B. 2612-76	Real estate recovery fund	258
144	H.B. 2613-76	Contractors recovery fund	259
145	H.B. 2960-76	Overtime compensation for public officers and employees	259
146	S.B. 1794-76	Notaries public	260
147	S.B. 1824-76	Appraisal of public lands	261
148	S.B. 1853-76	Bicycles	262
149	S.B. 1994-76	Traffic violations	265
150	S.B. 2121-76	Payment for health care services under public assistance programs	265
151	S.B. 2226-76	Employees' Retirement System	267
152	S.B. 2294-76	State health planning	268
153	S.B. 2394-76	Community development	270
154	H.B. 2786-76	Deferred acceptance of guilty plea	279
155	H.B. 2904-76	Occupation safety and health	281

ACT	BILL	SUBJECT	PAGE
156	S.B. 1775-76	Prepaid legal services	282
157	S.B. 2326-76	Employment security	290
158	S.B. 2715-76	Stadium Authority	297
159	S.B. 2739-76	Discrimination against physically handicapped	299
160	S.B. 2819-76	Hawaii Public Broadcasting Authority	301
161	S.B. 2958-76	Comparative negligence	302
162	H.B. 1776	Citizenship and residence requirements for government employees.....	303
163	H.B. 1801	Highways	304
164	H.B. 2371-76	Emancipation of certain minors	304
165	H.B. 2359-76	Public Utilities Commission	305
166	S.B. 2603-76	Council of Housing and Construction Industry	310
167	H.B. 934	Expenditure of public money and public contracts	314
168	H.B. 639-76	Hilo Day Activity Center for Adult Retarded	314
169	H.B. 682	Lapsing of certain funds.....	316
170	H.B. 1886	Civil service and exemption.....	318
171	H.B. 1997-76	Lands dedicated for residential use.....	320
172	H.B. 2056-76	Government expenditures by informal bid	322
173	H.B. 2099-76	Statute revision	322
174	H.B. 2101-76	Audit and accounting	324
175	H.B. 2102-76	Public purchases and contracts	325
176	H.B. 2103-76	Insurance	326
177	H.B. 2302-76	Public assistance	332
178	H.B. 2335-76	Housing	332
179	S.B. 1830-76	Initial appointments	336
180	H.B. 2824-76	Credit life insurance	336
181	H.B. 2932-76	Sentencing of repeat offenders	338
182	H.B. 2999-76	Civil service and exemptions	338
183	H.B. 3043-76	Civil actions	339
184	H.B. 3075-76	Ownership of solid wastes	341
185	H.B. 3095-76	Industrial loan companies	342
186	H.B. 3096-76	Industrial loan companies	343
187	H.B. 3162-76	Office of Information and Youth Affairs	345
188	S.B. 28	Motor vehicle taxes	347
189	S.B. 2467-76	Tax incentives for energy conservation	348
190	S.B. 2348-76	Importation of liquor as household goods	349
191	S.B. 2409-76	Total disability retirement for police officers	350
192	S.B. 2643-76	Public Employees Health Fund	351
193	H.B. 1399	Easements	352
194	H.B. 2928-76	Adoption of adults	353
195	H.B. 3129-76	School bus contracts	360
196	S.B. 1577	Public lands—leases	360
197	H.B. 83	Improving organization of agricultural programs	362
198	H.B. 3261-76	Agricultural commodities	365
199	H.B. 3262-76	Agricultural lands	369
200	S.B. 79	Uniform Probate Code.....	372
201	H.B. 3248-76	Developmental disabilities law	485
202	H.B. 2691	Labor education at University of Hawaii	487
203	H.B. 2809-76	Federally licensed small business investment companies	489
204	H.B. 3196-76	Use of firearms in certain offenses	493
205	H.B. 3299-76	Disaster relief and rehabilitation	494
206	S.B. 1821-76	Prepaid Health Care Act	498
207	S.B. 1899-76	Office of Children and Youth	498
208	H.B. 2237-76	Income tax	505
209	H.B. 2299-76	Mechanic's and materialman's liens	506
210	H.B. 2617-76	Electricians and plumbers	508

ACT	BILL	SUBJECT	PAGE
211	H.B. 2949-76	Housing	508
212	H.B. 3126-76	Public agency meetings and records	509
213	H.B. 3280-76	Franchises	511
214	H.B. 2256-76	Horizontal property regimes	512
215	H.B. 2893-76	Horizontal property regimes	513
216	H.B. 3108-76	Horizontal property regimes	513
217	H.B. 62	Elderly affairs	514
218	H.B. 2023-76	Deduction of expenses for household and dependent care	522
219	H.B. 2700-76	Medical professional liability	523
220	H.B. 1247	Veterans' Day	541
221	H.B. 1499	Small boat harbors	542
222	H.B. 2846-76	Income taxation	546
223	H.B. 2998-76	Powers of comptroller to regulate parking on state lands	547
224	H.B. 3230-76	Housing for elderly	547
225	S.B. 1758-76	Housing	556
226	H.B. 2100-76	Supplemental Appropriations Act of 1976	575
227	S.B. 2827-76	Appropriation for repair and maintenance of state facilities	738
228	S.B. 1874-76	Taxation of real property	739
229	S.B. 2274-76	Real property taxation	740
230	S.B. 2501-76	Secondhand dealers	743
231	H.B. 1441	Night hunting of birds and mammals	744
232	H.B. 1998-76	Relief of certain persons' claims against State	745
233	H.B. 2001-76	Appropriations to judiciary and authorizing issuance of bonds	748
234	H.B. 2147-76	Loans insured by department of agriculture	751
235	S.B. 2267-76	Developmental rates for general aviation facilities	752
236	H.B. 2300-76	Public assistance	753
237	H.B. 2473-76	Staggered system of motor vehicle registration	754
238	H.B. 2698-76	Parking tickets	755
239	H.B. 2894-76	Horizontal property regimes	757
240	H.B. 2987-76	Appropriations for collective bargaining cost items and salary adjustments of employees	760
241	H.B. 2878-76	State insurance administration	762
242	H.B. 2253-76	Residential leaseholds	762

**Session Laws of Hawaii
Passed By The
Eighth State Legislature
Regular Session
1976**

ACT 1

S.B. NO. 1893-76

A Bill for an Act Making Appropriations to Provide the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

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

SECTION 1. There is hereby appropriated from the general revenues of the State the sum of \$1,453,714, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1977, including but not limited to the 1976 regular session, Eighth State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1976 and 1977 regular sessions.

SECTION 2. There is hereby appropriated from the general revenues of the State the sum of \$1,880,494, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1977, including but not limited to the 1976 regular session, Eighth State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1976 and 1977 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1976 and 1977 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1976 and 1977 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 19, 1977, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 19, 1977.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the

ACT 1

provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$45 per day and authorized by the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 6. There is hereby appropriated from the general revenues of the State the sum of \$1,185,533 to the office of the legislative auditor for the following expenses: (a) the sum of \$945,533, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1976-77; (b) the sum of \$90,000, or so much thereof as may be necessary, for defraying the expenses of the office of the State ethics commission during the fiscal year 1976-77; (c) the sum of \$150,000, or so much thereof as may be necessary, to be expended upon approval of this Act, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) interim legislative studies and for contractual services for such studies, (5) equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material, and (6) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives, or of the Senate and the House of Representatives through the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 7. There is hereby appropriated from the general revenues of the State the sum of \$863,745, to the legislative reference bureau for the following expenses: (a) the sum of \$622,913, or so much thereof as may be necessary, for defraying the expenses of the legislative reference bureau during the fiscal year 1976-77; and (b) the sum of \$240,832, or so much thereof as may be necessary, for defraying the expenses of the office of the revisor of statutes during the fiscal year 1976-77.

SECTION 8. There is hereby appropriated from the general revenues of the State the sum of \$275,369, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1976-77.

SECTION 9. As of the close of business on June 30, 1977, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is hereby declared to be severable from the remainder of this Act.

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

(Approved February 9, 1976.)

ACT 2

S.B. NO. 1771-76

A Bill for an Act Relating to a Constitutional Convention.

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

SECTION 1. Purpose. Article XV, section 2 of the Constitution of the State of Hawaii provides that the legislature may put to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" It is the purpose of this Act to provide for the submission of such question at the general election of 1976.

SECTION 2. Submission of question. The Legislature hereby submits the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" to the electorate, which question shall be voted on at the general election of 1976.

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

(Approved March 18, 1976.)

ACT 3

H.B. NO. 1086

A Bill for an Act Relating to the Sale of Liquor on Election Days.

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

SECTION 1. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- (a) At no time under any circumstances shall any liquor:
 - (1) Be consumed on any public highway or any public sidewalk;
 - (2) Be sold or furnished by any licensee to:
 - (A) Any minor,
 - (B) Any person at the time under the influence of liquor,
 - (C) Any person known to the licensee to be addicted to the excessive use of intoxicating liquor, or
 - (D) Any person for consumption in any vehicle on the licensed premises;

Provided, that the sale of liquor to a minor shall not be deemed to be a violation of this subsection if, in making the sale the licensee was misled by the appearance of the minor and the attending circumstances into honestly believing that such minor was of legal age and the licensee acted in good faith, and it shall be incumbent upon the licensee to prove that he so acted in good faith;

- (3) Be consumed on the premises of a licensee or on any premises connected therewith, whether there purchased or not, except as permitted by the terms of the license;
- (4) Be sold or served by any minor upon any licensed premises except in such individually specified licensed establishments found to be otherwise suitable by the liquor commission in which an approved program of job training and employment for dining room waiters and

ACT 4

waitresses is being conducted in cooperation with the University of Hawaii, or the state community college system, or a federally sponsored manpower development and training program, under arrangements which ensure proper control and supervision of employees.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved March 31, 1976.)

ACT 4

S.B. NO. 2885-76

A Bill for an Act Relating to Amendments to District Boundaries by the State Land Use Commission and to Special Use Permits.

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

SECTION 1. Section 205-4, Hawaii Revised Statutes, is amended to read:

"Sec. 205-4 Amendments to district boundaries. (a) Any department or agency of the State including the land use commission, any department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified, may petition the land use commission for a change in the boundary of a district.

(b) Upon proper filing of a petition pursuant to subsection (a) above, the commission shall, within not less than sixty and not more than one hundred and eighty days, conduct a hearing on the appropriate island in accordance with the provisions of sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

(c) Any other provision of law to the contrary notwithstanding, notice of the hearing together with a copy of the petition shall be served on the county planning commission and the county planning department and all persons with a property interest in the land recorded at the department of taxation. In addition, such notice shall be mailed to all persons who have made a timely written request for advance notice of boundary amendment proceedings, and shall be published at least once in a newspaper in the county in which the land sought to be redistricted is situated as well as once in a newspaper of general circulation in the State at least thirty days in advance of the hearing. The notice shall comply with the provisions of section 91-9, shall indicate the time and place that maps showing the proposed district boundary may be inspected, and further shall inform all interested persons of their rights under subsection (d) of this section.

(d) Any other provisions of law to the contrary notwithstanding, prior to hearing of a petition the commission and its staff may view and inspect any land which is the subject of the petition.

*Edited accordingly.

(e) Any other provisions of law to the contrary notwithstanding, agencies and persons may intervene in the proceedings in accordance with this subsection.

- (1) The petitioner, the department of planning and economic development and the county planning department shall in every case appear as parties and make recommendations relative to the proposed boundary change.
- (2) All departments and agencies of the State and of the county in which the land is situated shall be admitted as parties upon timely application for intervention.
- (3) All persons who have some property interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed change that their interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as parties upon timely application for intervention.
- (4) All other persons may apply to the commission for leave to intervene as parties. Leave to intervene shall be freely granted, provided that the commission or its hearing officer if one is appointed may deny an application to intervene when in the commission's or hearing officer's sound discretion it appears that: (A) the position of the applicant for intervention concerning the proposed change is substantially the same as the position of a party already admitted to the proceeding; and (B) the admission of additional parties will render the proceedings inefficient and unmanageable. A person whose application to intervene is denied may appeal such denial to the circuit court pursuant to section 91-14.
- (5) The commission shall pursuant to chapter 91 adopt rules governing the intervention of agencies and persons under this subsection. Such rules shall without limitation establish: (A) the information to be set forth in any application for intervention; (B) time limits within which such applications shall be filed; and (C) reasonable filing fees to accompany such applications.

(f) Together with other witnesses that the commission may desire to hear at the hearing, it shall allow a representative of a citizen or a community group to testify who indicates a desire to express the view of such citizen or community group concerning the proposed boundary change.

(g) Within a period of not more than one hundred and eighty and not less than forty-five days after the close of the hearing, unless otherwise ordered by a court, the commission shall, by filing findings of fact and conclusions of law, act to approve the petition, deny the petition, or to modify the petition by imposing conditions necessary to uphold the intent and spirit of this chapter or the policies and criteria established pursuant to section 205-16.1 or to assure substantial compliance with representations made by the petitioner in seeking a boundary change. Such conditions, if any, shall run with the land and be recorded in the bureau of conveyances.

(h) No amendment of a land use district boundary shall be approved unless the commission finds upon the clear preponderance of the evidence that the

ACT 4

proposed boundary is reasonable, not violative of section 205-2 and consistent with the interim policies and criteria established pursuant to section 205-16.1, or any state plan enacted by the legislature which plan shall supersede any interim guidance policies.

(i) Parties to proceedings to amend land use district boundaries may obtain judicial review thereof in the manner set forth in section 91-14, provided that the court may also reverse or modify a finding of the commission if such finding appears to be contrary to the clear preponderance of the evidence."

SECTION 2. Section 205-6, Hawaii Revised Statutes, is amended to read:

"Sec. 205-6 Special permit. The county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use his land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission or the county within which his land is located for permission to use his land in the manner desired.

The planning commission shall conduct a hearing within a period of not less than thirty nor more than one hundred twenty days from the receipt of the petition. The planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

The planning commission may under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter. The planning commission shall act on the petition not earlier than fifteen days after the public hearing. A decision in favor of the applicant shall require a majority vote of the total membership of the planning commission, which shall be subject to the approval of the land use commission, provided that the land use commission may impose additional restrictions as may be necessary or appropriate in granting such approval, including the adherence to representations made by the applicant. A copy of the decision together with the findings shall be transmitted to the commission within sixty days after the decision is rendered. Within forty-five days after receipt of the county agency's decision, the commission shall act to approve, approve with modification, or deny the petition. A denial either by the county agency or by the commission, or a modification by the commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved April 6, 1976.)

*Edited accordingly.

ACT 5

H.B. NO. 449

A Bill for an Act Relating to Motor Vehicle Driver Licensing.

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

SECTION 1. Section 286-102, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

“(e) No person shall receive a driver's license unless he surrenders to the examiner of drivers all valid driver's licenses in his possession. All such surrendered licenses shall be returned to the issuing authority, together with information that the person is licensed in this State. No such person shall be permitted to hold more than one valid driver's license at any time.”

SECTION 2. Section 286-105, Hawaii Revised Statutes is amended to read:

“Sec. 286-105 What persons are exempt from license. The following persons are exempt from license:

- (1) Any person while driving or operating a motor vehicle in the service or employ of any branch or agency of the federal government; provided he has received from such branch or agency a license or permit to so operate and drive the motor vehicle; and provided such branch or agency has been duly authorized by the federal government to issue license or permit;
- (2) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway; provided that no person under the age of thirteen years shall be permitted to drive or operate any such road machine, farm tractor, or implement of husbandry on a highway.
- (3) Any person who is at least eighteen years of age and who has in his possession a valid driver's license issued to him in any other state of the United States or a province of the Dominion of Canada for that category of motor vehicle which he is operating, except, that such persons operating vehicles in categories 4 through 10 must meet the requirements of section 286-102(c) and be tested as required in section 286-108.5.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved April 6, 1976.)

*Edited accordingly.

A Bill for an Act Relating to the Real Property Home Exemption.

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

SECTION 1. Section 246-26, Hawaii Revised Statutes, is amended to read:

"Sec. 246-26 Homes. (a) Real property owned and occupied only as his or their principal home as of the date of assessment by any individual or individuals, shall be exempt only to the following extent from property taxes:

- (1) Totally exempt where the value of the property is not in excess of \$12,000;
- (2) Where the value of the property is in excess of \$12,000, the exemption shall be the amount of \$12,000.

Provided:

- (A) That no such exemption shall be allowed to any corporation, copartnership, or company;
- (B) That the exemption shall not be allowed on more than one home for any one taxpayer;
- (C) That where the taxpayer has acquired his home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before [June 30] December 31 immediately preceding the year for which the exemption is claimed;
- (D) That a husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall be entitled to one exemption, to be apportioned between each of their respective homes in proportion to the value thereof; and
- (E) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home.

(b) The use of a portion of any building or structure for the purpose of drying coffee and the use of a portion of real property, including structures, in connection with the planting and growing for commercial purposes, or the packing and processing for such purposes, of flowers, plants, or foliage, shall not affect the exemptions provided for by this section.

(c) Where two or more individuals jointly, by the entirety, or in common own or lease land on which their homes are located, each home, if otherwise qualified for the exemption granted by this section, shall receive the exemption. If a portion of land held jointly, by the entirety, or in common by two or more individuals is not qualified to receive an exemption, such disqualification shall not affect the eligibility for an exemption or exemptions of the remaining portion.

(d) A taxpayer who is sixty years of age or over and who qualifies under subsection (a) shall be entitled to one of the following multiples of home exemption:

Age of Taxpayer	Multiple to be Used in Computing Home Exemption Amount
60 years of age or over but not 70 years of age or over	2.0
70 years of age or over	2.5

For the purpose of this subsection, a husband and wife who own property jointly, by the entirety, or in common, on which a home exemption under the provisions of subsection (a) has been granted shall be entitled to the applicable multiple of home exemption set forth above when at least one of the spouses qualifies each year for the applicable multiple of home exemption."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring. In making the deletions allowed by this section, the revisor shall retain the amendments made by Act 157, Session Laws of Hawaii 1975, except that section 246-26(a) (2) (F) is repealed. Except as to section 246-26(a) (2) (F), the intention of this Act is not to repeal or affect Act 157.*

SECTION 3. This Act, upon its approval, shall take effect on July 1, 1976.
(Approved April 6, 1976.)

[Revisor's note. Underscored matter is substituted for bracketed matter, effective January 1, 1977, L 1975, Act 157, §§10.35.]

ACT 7

S.B. NO. 2094-76

A Bill for an Act Amending Section 101-2 of the Hawaii Revised Statutes, Relating to Taking of Private Property for Public Use and the Disposal of Excess Property.

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

SECTION 1. Section 101-2 of the Hawaii Revised Statutes is hereby amended to read as follows:

"Section 101-2 Taking private property for public use; disposal of excess property. Private property may be taken for public use. Private property may also be taken by the State or any county in excess of that needed for such public use in cases where small remnants would otherwise be left or where other justifiable cause necessitates such taking to protect and preserve the contemplated improvement, or public policy demands such taking in connection with the improvement, in which case the condemning authority may sell or lease such excess property, with such restrictions as may be dictated by considerations of public policy in order to protect and preserve such improvements; provided, that in the disposal of any such excess property, if such property is less than the minimum lot size requirements of the applicable zoning regulations, is of a

*Edited accordingly.

ACT 8

configuration or topography which in the judgment of the appropriate county zoning authority cannot be put to a reasonable use in accordance with the applicable zoning regulations, or lacks proper access to a street, it shall be offered to the owner or owners of the abutting land for a reasonable price based on an appraisal; provided further, that if such excess property conforms to said minimum lot size requirements, is of a configuration and topography which in the judgment of the appropriate county zoning authority can be put to a reasonable use in accordance with the applicable zoning regulations and has proper access to a street, then the State or the county, as the case may be, may sell such property at public auction. If there is more than one abutting owner who is interested in purchasing any such excess property which is less than the minimum lot size requirements of the applicable zoning regulations, is of a configuration or topography which in the judgement of the appropriate county zoning authority cannot be put to a reasonable use in accordance with applicable zoning regulations, or lacks proper access to a street, it shall be sold by the condemning authority by sealed bid to the abutting owner submitting the highest offer above the appraised value; provided further, that if any such excess property abuts more than one parcel, the condemning authority may make application for subdividing such property so that a portion thereof may be sold to each abutting owner at the appraised value if the public interest is best served by such subdivision and disposal. All moneys received from the sale or lease of such excess property shall be paid into the fund or appropriation from which money was taken for the original condemnation and shall be available for the purposes of such fund or appropriation."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved April 9, 1976.)

ACT 8

S.B. NO. 2231-76

A Bill for an Act Relating to Kula Hospital.

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

SECTION 1. The institution formerly referred to as Kula Sanitorium and General Hospital and as Kula Sanitorium shall be known as Kula Hospital.

SECTION 2. Section 325-78, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) No means test, payment, or charge of any kind shall be required by the department of health, or, during any fiscal period during which the Leahi

*Edited accordingly.

Hospital receives any public money, by the Leahi Hospital, or by the Hilo Hospital, or by the Samuel Mahelona Memorial Hospital, or by the Kula [Sanatorium] Hospital of or from any person for any test, diagnosis, examination, medicine, care, treatment, hospitalization, or rehabilitation for tuberculosis or for any rehabilitation after tuberculosis. Voluntary payments, contributions or gifts for such purposes may be received, but shall not be requested or solicited from any patient or any of his relatives, by the department, the Leahi Hospital, the Hilo Hospital, the Samuel Mahelona Memorial Hospital, or the Kula [Sanatorium.] Hospital. All expenses for any such test, diagnosis, examination, medicine, care, treatment, hospitalization, or rehabilitation shall be paid out of funds appropriated for tuberculosis control, or out of any available funds of the Leahi Hospital, the Hilo Hospital, the Samuel Mahelona Memorial Hospital or the Kula [Sanatorium.] Hospital.

(b) This section shall not prohibit the department, the Leahi Hospital, the Hilo Hospital, the Samuel Mahelona Memorial Hospital, or the Kula [Sanatorium] Hospital from contracting with one or more other public or private agencies or persons for the testing, diagnosis, examination, care, treatment, hospitalization, or rehabilitation of veterans or other persons in reference to tuberculosis for specified fees or charges, or from accepting, holding, expending, or using voluntary payments, contributions, or gifts for purposes not inconsistent with the terms or conditions of the voluntary payments, contributions, or gifts."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

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

(Approved April 9, 1976.)

ACT 9

H.B. NO. 2247-76

A Bill for an Act Relating to Civil Service and Exemptions.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

"Sec. 76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personnel services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances

ACT 9

- surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
 - (4) Positions filled by the legislature or by either house or any committee thereof;
 - (5) Employees in the office of the governor and household employees at Washington Place and six employees in the office of the Lieutenant governor;
 - (6) Positions filled by popular vote;
 - (7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
 - (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
 - (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; one law clerk for each justice of the supreme court and each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in subparagraph (17);
 - (10) Assistant and deputy attorneys general and law clerks;
 - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
 - (12) Employees engaged in research projects approved by the governor, for which projects federal funds are available, provided the period of employment shall not exceed one year;
 - (13) Election inspectors, election clerks and other election employees;
 - (14) Positions filled by inmates, kokua, patients, and students of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs under Titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, as amended;

- (15) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (16) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (17) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services and housing; and an administrative assistant to the superintendent of education;
- (18) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (19) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects[.];
- (20) Household employees at the official residence of the president of the University of Hawaii.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

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

(Approved April 9, 1976.)

A Bill for an Act Relating to Revision of Rates, Fares, and Charges of Public Utilities.

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

ACT 10

SECTION 1. Section 269-16, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 269-16 Regulate rates, etc., hearings, notice of hearings, appeals. (a) All rates, fare, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the public utilities commission.

(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission and prior approval by the commission for any increases in rates, fares, or charges. The notice herein provided for shall plainly state the rate, fare, charge, classification, schedule, rule, or practice proposed to be established, abandoned, modified, or departed from and the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for herein. A contested case hearing shall be held in connection with any increase in rates and such hearing shall be preceded by a public hearing at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The public hearing shall be an advertised public hearing or hearings on the island on which the utility is situated. Notice of the advertised hearing, with the purpose thereof, and the date, time, and place at which it will open, shall be advertised not less than once in each of three weeks in a newspaper published in and of general circulation in the State, the first publication being not less than twenty-one days before the public hearing and the last publication being not more than two days before the scheduled hearing. The applicant or applicants will notify their consumers or patrons of the proposed change in rates and of the time and place of the public hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing. The commission is authorized to use such additional media as radio or television to advise the public if it finds it necessary to do so. The commission, upon notice to the public utility, may suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom and after a hearing by order regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices, so that the same shall be just and reasonable, and prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, prescribe its form and method of keeping accounts, books, and records, and its accounting system, regulate the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions, and do all things in addition

which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed, and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes.

(c) The commission may in its discretion and after public hearing, upon showing by a public utility of probable entitlement and financial need, authorize temporary increases in rates, fares, and charges; provided that the commission shall by order require the public utility to return in the form of an adjustment to rates, fares, or charges to be billed in the future any amounts, with interest at a rate equal to the rate of return on such public utility's rate base found to be reasonable by the commission, received by reason of such continued operation which are in excess of the rates, fares, or charges finally determined to be just and reasonable by the commission. Interest on any such excess shall commence as of the date that any rate, fare, or charge goes into effect which results in any such excess and shall continue to accrue on the balance of any such excess until returned.

(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate the commission shall require all parties to a proceeding to comply strictly with procedural time schedules which it establishes. If a decision is rendered after the nine-month period, the commission shall in writing report the reasons therefor to the Legislature within thirty days after rendering the decision.

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may within twenty-one days after receipt object to the sufficiency of any application and the commission shall hear and determine any such objection within twenty-one days after the same is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant to submit an amended application consistent with its findings and the nine-month period shall not commence until the amended application is filed.

(e) In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the State of Hawaii, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commission may distribute, apportion, or allocate gross income, deductions, credits or allowances between or among the organizations, trades, or businesses, if it determines that the distribution, apportionment, or allocation is necessary in order to adequately reflect the income of any such organizations, trades, or businesses to carry out the regulatory duties imposed by this section.

(f) From every order made by the commission under the provisions of this chapter which is final, or if preliminary is of the nature defined by section 91-14(a), an appeal shall lie to the supreme court only by a person aggrieved in the

ACT 11

contested case hearing provided for under this section in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the order after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved April 9, 1976).

ACT 11

H.B. NO. 2319-76

A Bill for an Act Relating to High-Voltage Power Transmission Lines.

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

SECTION 1. The purpose of this Act is to require a public hearing be held prior to the issuance of a permit to construct above ground, high-voltage electric transmission lines in any residential area.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 269- Construction of high-voltage electric transmission lines; hearing. Wherever a public utility plans to place, construct, erect, or otherwise build a new 46 kilo-volt or greater high-voltage electric transmission system above the surface of the ground through any residential area, the public utilities commission shall conduct a public hearing prior to its issuance of approval thereof. Notice of the hearing shall be given in the manner provided in section 269-16 for notice of public hearings."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved April 12, 1976.)

ACT 12

H.B. NO. 2216-76

A Bill for an Act Relating to the Disposition of Remnants of Public Lands.

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

*Edited accordingly.

SECTION 1. Section 171-52, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) Disposition. Remnants or portions thereof may be disposed of by the board of land and natural resources without recourse to public auction in the manner set forth herein. Any remnant or portion thereof to be disposed of shall be first offered for sale to the abutting owner for a reasonable period of time at a reasonable price based on appraised value. If there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting a sealed bid containing the highest offer above the appraised value. If the remnant abuts more than one parcel, the board may subdivide the remnant so that a portion thereof may be sold to each abutting owner at the appraised value; provided, however, that no remnant shall be sold to any abutting owner unless said remnant, when combined or consolidated with the abutting property, shall constitute a lot acceptable to the appropriate agency of the county in which the remnant lies; and provided, further, that appropriate language shall be included in any document of conveyance of such remnant to assure use of the remnant in accordance with the applicable ordinances, rules, and regulations of the county concerned.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved April 12, 1976.)

A Bill for an Act Relating to Collective Bargaining.

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

SECTION 1. Section 89-6(c), Hawaii Revised Statutes, as amended, is hereby amended to read as follows:

“(c) No elected or appointed official, member of any board or commission, representative of a public employer, including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof as well as his first deputy, first assistant, and any other top-level managerial and administrative personnel, individual concerned with confidential matters affecting employee-employer relations, part-time employee working less than twenty hours per week, temporary employee of three months duration or less, employee of the executive office of the governor, household employee at Washington Place, employee of the executive office of the mayor, staff of the legislative branch of the State, employee of the executive office of the lieutenant governor, inmate, kokua, patient, ward or student of a state institution, student

*Edited accordingly.

ACT 14

help, any commissioned and enlisted personnel of the Hawaii national guard, or staff of the legislative branch of the city and county of Honolulu and counties of Hawaii, Maui and Kauai except employees of the clerks' offices of said city and county and counties, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved April 12, 1976.)

ACT 14

H.B. NO. 3106-76

A Bill for an Act Relating to Office of Manpower Planning Administrator.

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

SECTION 1. Chapter 371, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 371- Manpower planning administrator. The position of manpower planning administrator which shall be exempt from chapters 76 and 77 is established within the department of labor and industrial relations. The manpower planning administrator shall be appointed by the director with the concurrence of the state manpower services council. The manpower planning administrator shall supervise and direct operations and functions of the office of manpower planning within the department of labor and industrial relations. He shall also serve as executive director of the state manpower services council as established under the Federal Comprehensive Employment and Training Act of 1973, as amended."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved April 12, 1976.)

ACT 15

H.B. NO. 3213-76

A Bill for an Act Relating to Professional Boxing Corporations.

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

SECTION 1. Section 440-12, Hawaii Revised Statutes, is amended to read:

"Sec. 440-12 Licenses, participants. Any individual, partnership, or corporation may make application to the boxing commission for a license to act

*Edited accordingly.

as physician, referee, judge, matchmaker, manager, timekeeper, second, trainer, announcer, or professional boxer to participate, either directly or indirectly, in any contest. The application shall be in writing, addressed to the commission, and duly verified by the applicant or, if the applicant is a corporation, by a duly authorized officer thereof. The application shall contain a recital of such facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental and moral qualifications to entitle the applicant to a license. Any license to act as physician, referee, judge, matchmaker, manager, timekeeper, second, trainer, announcer, or professional boxer may be suspended or revoked by the commission upon such cause as it deems sufficient after due hearing."

SECTION 2. Section 440-14, Hawaii Revised Statutes, is amended to read:

"Sec. 440-14 Licenses, limitations, renewals. No boxing contest shall be conducted, held, or given unless all the parties participating, as designated herein, are licensed by the boxing commission, and it shall be unlawful for any person, partnership or corporation to participate in a boxing contest in any capacity designated herein unless he is licensed to do so.

The commission may limit the number of licenses issued for any purpose as specified in this chapter and may limit the number of professional contests conducted, held, or given in any city, town, or in the State.

All licenses shall be for a period of not more than one year and all licenses shall expire on December 31 of the year in which they are issued.

The commission, at its discretion, may upon application, renew such licenses for the following year.

Every club, person, partnership or corporation licensed under this chapter is subject to such rules and regulations, and amendments thereof, as the commission may prescribe."

SECTION 3. Section 440-34, Hawaii Revised Statutes, is amended to read:

"Sec. 440-34 Violations; penalty. Any person, partnership or corporation in violation of this chapter shall be fined not more than \$500 or imprisoned not more than one year, or both."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved April 13, 1976.)

*Edited accordingly.

A Bill for an Act Relating to Consent to Adoption.

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

SECTION 1. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Persons as to whom consent not required or whose consent may be dispensed with by order of the court.

(1) Persons as to whom consent not required:

- (A) A parent who has deserted a child without affording means of identification for a period of ninety days;
- (B) A parent who has voluntarily surrendered the care and custody of the child to another for a period of two years;
- (C) A parent of the child in the custody of another, if the parent for a period of at least one year has failed to communicate with the child when able to do so;
- (D) A parent of a child in the custody of another, if the parent for a period of at least one year has failed to provide for the care and support of the child when able to do so;
- (E) A natural father who was not married to the child’s mother at the time of the child’s conception or birth and who does not fall within the provisions of section 578-2(a) (3) or (4) or (5);
- (F) A parent whose parental rights have been judicially terminated under the provisions of sections 571-61 to 571-63, or under the provisions of any other state or other law by a court or other agency having jurisdiction to take such action;
- (G) A parent judicially declared mentally incompetent or mentally retarded if the court dispenses with such parent’s consent;
- (H) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably.
- (I) A parent of a child who has been in the custody of a petitioner under this chapter for a period of at least one year and who entered the United States of America as a consequence of extraordinary circumstances in said child’s country of origin, by reason of which extraordinary circumstances the existence, identity or whereabouts of said child’s parents is not reasonably ascertainable or there is no reasonable means of obtaining suitable evidence of the child’s identity or availability for adoption.

(2) Persons whose consent may be dispensed with by order of the court.

The court may dispense with the consent of a parent who comes within section 578-2(a) (3) or (4) or (5) herein, upon a finding that:

- (A) The petitioner is the stepfather of the child and the child has lived

- with his legal mother and the petitioning stepfather for a period of at least one year; or
- (B) The adjudicated, presumed or concerned father has not filed a petition to adopt said child, or the petition to adopt said child filed by the said father has been denied; or
- (C) The adjudicated, presumed or concerned father is not a fit and proper person or is not financially or otherwise able to give the child a proper home and education."

SECTION 2. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Notice of hearing; minor parent; consent authorizing selection of adopted parents. No hearing of a petition for adoption shall be had unless each of the living parents of the child who falls within the provisions of paragraph 2(a) and who has not consented to the proposed adoption, but who is alleged to come within the provisions of paragraphs (b) (1) (A), (B), (C) and (D) or (b) (2) of this section, and any man whose name appears as father on the child's birth certificate, shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof. Such notice need not be given to any parent whose parental rights have been legally terminated as hereinabove provided or whose consent has been filed with the court.

The minority of a child's parent shall not be a bar to the right of such parent to execute a valid and binding consent to the adoption of such child.

Any parental consent required hereunder shall be valid and binding even though it does not designate any specific adoptive parent or parents, if it clearly authorizes the department of social services and housing, or a child placing organization approved by the department under the provisions of section 346-17 or some proper person not forbidden by law to place a child for adoption, to select and approve an adoptive parent or parents for the child."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

(Approved April 23, 1976.)

A Bill for an Act Relating to Workers' Compensation.

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

SECTION 1. Section 386-23, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

ACT 18

"Sec. 386-23 Services of attendant. When the director of labor and industrial relations finds that the service of an attendant for the injured employee is constantly necessary he may award a monthly sum of not more than the product of four times the effective maximum weekly benefit rate prescribed in section 386-31, as the director may deem necessary, for the procurement of such service."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of the statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved April 28, 1976.)

ACT 18

S.B. NO. 1836-76

A Bill for an Act Relating to the Department of Regulatory Agencies.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read:

"Sec. 26-9 Department of regulatory agencies. The department of regulatory agencies shall be headed by a single executive to be known as the director of regulatory agencies.

The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, rules, and regulations governing the licensing and operation of, and register and supervise the conduct of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

The board of examiners of abstract makers, board of accountants, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, collection agencies advisory board, contractors license board, board of dental examiners, board of registration for professional engineers, architects, and surveyors, board of massage, board of medical examiners, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, board of pharmacy, board of photography, board of detectives and guards, public utilities commission, real estate commission, and board of veterinary examiners are placed within the department of regulatory agencies for administrative purposes.

Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of regulatory agencies, and the composition of each board and commission shall be as heretofore provided by law.

Notwithstanding any provision to the contrary, the employment, appoint-

*Edited accordingly.

ment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department shall be determined by the director of regulatory agencies subject only to applicable personnel laws.

The director of regulatory agencies may appoint a hearings officer or officers not subject to chapters 76 and 77 to hear and decide any case or controversy regarding licenses and the application and enforcement of rules and regulations involving any of the boards or commissions within the department of regulatory agencies. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided, that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be conducted in accordance with chapter 91.

The director may appoint a complaints officer not subject to chapters 76 and 77 who shall facilitate the investigation and hearing of complaints.

The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore constituted are transferred to the department of regulatory agencies established by this chapter. The director of regulatory agencies shall also be the insurance commissioner, commissioner of securities, and the fire marshal of the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved April 28, 1976.)

ACT 19

S.B. NO. 1862-76

A Bill for an Act Relating to the University of Hawaii.

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

SECTION 1. Section 304-1, Hawaii Revised Statutes, is amended to read:

"Sec. 304-1 Establishment; available to all. There shall be a University of Hawaii which shall consist of such colleges and departments as may from time to time be established.

No person shall, because of race, color, religion, sex, or national origin, be deprived of the privileges of this institution."

SECTION 2. Statutory material to be repealed is bracketed. New material

*Edited accordingly.

ACT 20

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved April 28, 1976.)

ACT 20

H.B. NO. 1185

A Bill for an Act Relating to Disclosure by Liquid Fuel Distributors.

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

SECTION 1. Section 486E-3, Hawaii Revised Statutes, is amended to read:

"Sec. 486E-3 Statements. Each distributor shall on or before the twenty-first day of each calendar month, file with the director, on forms prescribed, prepared, and furnished by him, a certified statement showing separately for each county and for the islands of Lanai and Molokai within which and whereon liquid fuel is sold or used during the last preceding month of the calendar year, the following:

- (1) The total number of gallons of liquid fuel refined, manufactured, or compounded by the distributor within the State and sold or used by him, and if for ultimate use in another county or on either island, the name of that county or island;
- (2) The total number of gallons of liquid fuel imported by him or sold or used by him, and if for ultimate use in another county or on either island, the name of that county or island;
- (3) The total number of gallons of fuel sold as liquid fuel, aviation fuel, diesel fuel, and such other types of fuel as required by the director; and
- (4) The total number of gallons of liquid fuel and the types thereof sold to: federal, state, and county agencies, ships stores, or base exchanges, commercial agricultural accounts, commercial nonagricultural accounts, retail dealers, and such other customers as required by the director.

In addition to the above reporting for the prior month, each distributor shall on or before the twenty-first day of each calendar month, file with the director, Federal Form FEO-1000 or an equivalent state form to be prescribed, prepared, and furnished by the director, showing the expected supply of liquid fuel products for the coming month, and their intended distribution as categorized by Form FEO-1000 or the equivalent state form. The state form will be supplied in the event that the Federal Mandatory Petroleum Allocation Regulations should expire, be revoked, or be amended to delete or substantially change the reporting requirements provided therein.

All statements submitted to the department of regulatory agencies under this section shall be held confidential."

*Edited accordingly.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved April 28, 1976.)

ACT 21

H.B. NO. 2090-76

A Bill for an Act Relating to the Hawaii National Guard and the Hawaii State Guard.

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

SECTION 1. Section 121-26, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 121-26 Relief from civil or criminal liability. Members of the army or air national guard or the militia ordered into active service of the State by any proper authority shall not be liable, civilly or criminally, for any act or acts done by them in pursuance of duty in such service. The attorney general, his deputy, special deputy, or appointee shall defend all actions brought civilly or criminally for acts or omissions against any member of the army, air national guard, or militia which reasonably appear to have occurred during the performance of service under this chapter, or chapter 122, or during a call-up under section 121-30, and reasonably done within the line or performance of duty. No action or proceedings shall be prosecuted or maintained against a member of a military court or an officer or person acting under its authority or reviewing its proceedings, on account of the approval or imposition or collection of a fine or penalty, or the execution of any writ, warrant, execution, process, or mandate of a military court."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved April 28, 1976.)

ACT 22

H.B. NO. 2155-76

A Bill for an Act Relating to General Obligation Bonds of the State of Hawaii.

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

SECTION 1. Section 39-5, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

ACT 23

"Sec. 39-5 Interest rate, denominations, maturities, place payable, medium of payment, registration, redemption and other details of bonds. All bonds issued under this part shall bear interest, payable annually or semi-annually, at a rate or rates not exceeding eight per cent a year; shall mature and be payable at such time or times from the date of the issue thereof as will comply with the provisions of the Constitution of the State; may be made payable as to both principal and interest at places within and without the State; may be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or issued in fully registrable form; may be made registrable at places within and without the State; and may be made redeemable at any time or times prior to their stated maturities at prices not to exceed one hundred four per cent of the par value thereof. The director of finance shall determine the date, denomination or denominations, interest payment dates, maturities, places of payment, registration privileges and places of registration, redemption prices and time or times and method of redemption, and all other details of bonds issued under this part. The principal and interest of all bonds issued under this part shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect on April 1, 1976.

(Approved April 28, 1976.)

ACT 23

H.B. NO. 2165-76

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 207, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (a) to read:

"(a) The department 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 forty acres of agriculture lands; or (2) not less than one hundred nor more than five hundred acres of firstclass pastoral lands; or (3) not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands; or (4) not less than forty nor more than one hundred acres of irrigated pastoral lands; (5) 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 department;

*Edited accordingly.

provided further, that a lease granted to any lessee may include two detached farm lots located on the same island and within a reasonable distance of each other, one of which, to be designated by the department, shall be occupied by the lessee as his home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural or pastoral lot, as the case may be, as provided in this section; provided further, that the department may designate the location of the homesite on residence lots less than 10,000 square feet."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval by the Governor of the State of Hawaii, and with the consent of the United States.

(Approved April 28, 1976.)

ACT 24

H.B. NO. 2168-76

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 204 of the Hawaiian Homes Commission Act, 1920, is amended to read:

"Sec. 204 Control by department of "available lands"; return to board of land and natural resources, when. Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this title, except that:

(1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in subdivision (d) of section 73 of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department, with the approval of the Secretary of the Interior, gives notice to it that the department is of the opinion that the lands are required by it for the purposes of this title; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian Organic Act;

(2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, as may not be immediately needed for the purposes of this Act, may be returned to the board of land and natural resources

*Edited accordingly.

ACT 25

and may be leased by it as provided in chapter 171, Hawaii Revised Statutes, or may be retained for management by the department.

Any lease by the board of land and natural resources of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board of land and natural resources, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal-notice period shall be specifically stated in such lease.

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171; provided, that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act.

(3) The department shall not lease, use, nor dispose of more than twenty thousand (20,000) acres of the area of Hawaiian home lands, for settlement by native Hawaiians, in any calendar five-year period.

(4) The department may, with the approval of the governor and the Secretary of Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though the same were originally designated as such under section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange shall be made without the approval of two-thirds of the members of the board of land and natural resources."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. If any portion of this Act is declared invalid, the remaining portions of this Act shall not be affected thereby.

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

(Approved April 28, 1976.)

ACT 25

H.B. NO. 2194-76

A Bill for an Act Relating to Prepaid Health Care.

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

*Edited accordingly.

SECTION 1. The legislature finds that alcoholism and drug problems are the medical problems most disruptive of family life and employment, with alcoholism ranking, in addition, as the third highest medical cause of death in the United States today. Alcoholism and drug addiction are illnesses, and like other illnesses, their treatment should be uniformly covered by prepaid health care plans. The legislature further finds that such inclusion in prepaid health care plans will provide visibility to alcoholism and drug addiction benefits, and as a result, may encourage more accurate diagnosis of health problems related to alcoholism and drug addiction, because of health plan coverage. Moreover, employees may be encouraged to seek early diagnosis and treatment because of such coverage. Effective treatment will reduce substantially the great economic loss to employers. The purpose of this Act is to ensure adequate treatment for alcoholism and drug addiction by requiring its inclusion in prepaid health care plans, including coverage for appropriate detoxification and treatment facilities.

SECTION 2. Section 393-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Subject to the provisions of subsections (a) and (b) without limiting the development of medically more desirable combinations and the inclusion of new types of benefits, a prepaid health care plan qualifying under this chapter shall include at least the following benefit types:

- (1) Hospital benefits:
 - (A) In-patient care for a period of at least one hundred twenty days of confinement in each calendar year covering:
 - (i) Room accommodations;
 - (ii) Regular and special diets;
 - (iii) General nursing services;
 - (iv) Use of operating room, surgical supplies, anesthesia services, and supplies;
 - (v) Drugs, dressing, oxygen, antibiotics, and blood transfusion services.
 - (B) Out-patient care:
 - (i) Covering use of out-patient hospital;
 - (ii) Facilities for surgical procedures or medical care of an emergency and urgent nature.
- (2) Surgical benefits:
 - (A) Surgical services performed by a licensed physician, as determined by plans meeting the standards of subsections (a) and (b);
 - (B) After-care visits for a reasonable period;
 - (C) Anesthesiologist services.
- (3) Medical benefits:
 - (A) Necessary home, office, and hospital visits by a licensed physician;
 - (B) Intensive medical care while hospitalized;
 - (C) Medical or surgical consultations while confined.
- (4) Diagnostic laboratory services, x-ray films, and radio-therapeutic services, necessary for diagnosis or treatment of injuries or diseases.
- (5) Maternity benefits, at least if the employee has been covered by the

ACT 25

prepaid health care plan for nine months prior to the delivery.

(6) Substance abuse benefits:

- (A) Alcoholism and drug addiction are illnesses and shall receive benefits as such. In-patient and out-patient benefits for the diagnosis and treatment of substance abuse, including but not limited to alcoholism and drug addiction, shall be specifically stated and shall not be less than the benefits for any other illness, except as provided in this subsection. Medical treatment of substance abuse shall not be limited or reduced by restricting coverage to the mental health or psychiatric benefits of a plan. However, any psychiatric services received as a result of the treatment of substance abuse may be limited to the psychiatric benefits of the plan.
- (B) Out-patient benefits provided by a physician, psychiatrist, or psychologist, without restriction as to place of service; provided that health plans of the type specified in section 393-12(a) shall retain for the contractor the option of:
 - (i) Providing the benefits in its own facility and utilizing its own staff, or
 - (ii) Contracting for the provision of these benefits, or
 - (iii) Authorizing the patient to utilize outside services and defraying or reimbursing the expenses at a rate not to exceed that for provision of services utilizing the health contractor's own facilities and staff.
- (C) Detoxification and acute care benefits in a hospital or any other public or private treatment facility, or portion thereof, providing services especially for the detoxification of intoxicated persons or drug addicts, which is appropriately licensed, certified, or approved by the department of health in accordance with the standards prescribed by the Joint Commission on Accreditation of Hospitals. In-patient benefits for detoxification and acute care shall be limited in the case of alcohol abuse to three admissions per calendar year, not to exceed seven days per admission, and shall be limited in the case of other substance abuse to three admissions per calendar year, not to exceed twenty-one days per admission.
- (D) Prepaid health plans shall not be required to make reimbursements for care furnished by government agencies and available at no cost to a patient, or for which no charge would have been made if there were no health plan coverage."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1976; provided that prepaid health care contracts due for renewal after July 1, 1976 may defer

*Edited accordingly.

inclusion of these substance abuse benefits until such renewal date, or January 1, 1977, whichever occurs earlier.

(Approved April 28, 1976.)

ACT 26

H.B. NO. 2533-76

A Bill for an Act Relating to Day Care Centers.

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

SECTION 1. Section 346-19, Hawaii Revised Statutes, is amended to read:

"Sec. 346-19 Day care centers defined. A "day care center" is defined as a place maintained by any individual, organization, or agency for the purpose of providing care for a child or children with or without charging a fee during any part of a twenty-four hour day. The term day care center includes any place where group care is provided for six or more children, and any family home providing care for two to five children.

Nothing in sections 346-18 to 346-25 shall be construed to include an individual person caring for a related child, a neighbor or friend caring for a child or children if the person does not regularly engage in such activity, a kindergarten or school conducted solely for educational purposes or specialized training, or an organization established to conduct athletic or social group functions."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall be effective July 1, 1976.

(Approved April 28, 1976.)

ACT 27

H.B. NO. 2880-76

A Bill for an Act Relating to the State Environmental Policy.

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

SECTION 1. The purpose of this Act is to propose an amendment to Section 344-4 of the Hawaii Revised Statutes to provide for guidelines relating to solid wastes.

SECTION 2. Section 344-4 (2) is amended to read as follows:

"(2) Land, water mineral, visual, air and other natural resources.

(A) Encourage management practices which conserve and fully utilize all natural resources;

*Edited accordingly.

ACT 28

- (B) Promote irrigation and waste water management practices which conserve and fully utilize vital water resources;
- (C) Promote the recycling of waste water;
- (D) Encourage management practices which conserve and protect watersheds and water sources, forest, and open space areas;
- (E) Establish and maintain natural area preserves, wildlife preserves, forest reserves, marine preserves, and unique ecological preserves;
- (F) Maintain an integrated system of state land use planning which coordinates the state and county general plans;
- (G) Promote the optimal use of solid wastes through programs of waste prevention, energy resource recover, and recycling so that all our wastes become utilized."

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

(Approved April 28, 1976.)

ACT 28

H.B. NO. 2895-76

A Bill for an Act Making an Appropriation for the Plans and Construction of Interim Law School Facilities at the University of Hawaii, Manoa Campus, and Authorizing the Issuance of General Obligation Bonds.

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

SECTION 1. Findings and Declaration of Necessity. The Legislature finds and declares that the immediate authorization of construction for interim Law School facilities at the University of Hawaii, Manoa Campus, is deemed urgent and necessary in view of the following:

- (1) The American Bar Association has mandated that improved facilities be provided by September, 1976 for the Law School to continue to receive accreditation;
- (2) Plans for the additional facilities have been started with prior appropriations, however, construction funds are needed by March, 1976 if the facilities are to be ready for occupancy by September, 1976;
- (3) Because the Law School will be displacing certain other programs in adjoining temporary facilities, funds are required to relocate and renovate portable buildings to be used by these programs;
- (4) Pursuant to Article VI, Section 5, of the Constitution of the State of Hawaii, the Governor has recommended immediate passage of this appropriation.

SECTION 2. There is hereby appropriated out of the general obligation bond funds of the State of Hawaii, the sum of \$838,000, or so much thereof as may be necessary, to be expended by the Department of Accounting and General Services for plans, construction, and equipment for interim Law School Facilities and for facilities for programs displaced by the Law School at the University of Hawaii, Manoa Campus.

SECTION 3. This appropriation shall supplement prior appropriations for the development of Law School Facilities authorized by Act 218, S.L.H. 1974, and Act 195, S.L.H. 1975.

SECTION 4. The Director of Finance is authorized to issue general obligation bonds of the State to yield the amount of \$838,000 appropriated by this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 28, 1976.)

ACT 29

H.B. NO. 3013-76

A Bill for an Act Relating to Adult Family Boarding Homes and Care Homes.

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

SECTION 1. The legislature finds that there are currently existing in the State several hundred facilities known either as adult family boarding homes or care homes which provide care for the elderly and handicapped in a home-like environment. The legislature finds that while the department of social services and housing began its adult family boarding home program in 1965, it was not until the passage of Act 20, Session Laws of Hawaii 1971, that explicit authorization for the regulation of adult family boarding homes was given the department. Act 20 gave the department the authority "... to recruit and license adult family board homes ... to care for adult recipients who do not require the level of care provided in an intermediate care facility or care home". Rule 12, "Rules and Regulations Governing Adult Family Boarding Homes", defines an adult family boarding home as a family home operating as a business for profit providing accommodations to not more than three adults, unrelated to the family, who require minimal care and supervision in their daily activities.

Regarding care homes, the legislature finds that these are facilities which provide general or rehabilitative care incident to old age or disability not necessarily involving twenty-four hour medical care and in a noninstitutional setting. The legislature further finds that care homes fall under the category of home health agencies as provided for in section 321-11(10), Hawaii Revised Statutes, and are subject to licensing and regulation by the department of health.

The legislature in reviewing House Special Committee Report No. 5, January 23, 1976, submitted by the House Committee on Youth and Elderly Affairs finds that a number of complex and sensitive issues stem from the operation of adult family boarding homes and care homes. Among the key issues are those relating to the adequacy of care being provided in certain unlicensed facilities, the adequacy of the payment levels for care provided and the adequacy of the mechanisms for monitoring the operation of these facilities. The legislature concurs in general with the recommendations contained in House Special Committee Report No. 5 and endorses the proposed immediate and long-range solutions.

In summary, the legislature finds that of the several alternative approaches proposed for the amelioration of the problems with regard to adult family

ACT 29

boarding homes and care homes, the alternative of licensing all adult family boarding homes and concurrently providing placements of individuals in unlicensed facilities only in legitimate emergencies and for a limited time only, appears to be the most practical one.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 321- Emergency placements in unlicensed care homes. Placement of persons needing care in care homes shall be authorized only in facilities duly licensed by the department of health, except that in a bona fide emergency where no appropriate licensed facility is available, the department of health may authorize placement in an unlicensed facility; provided the department concurrently issues a special certificate authorizing such placement for a period not to exceed six consecutive calendar months; and provided further that immediate planning shall take place for the location of an appropriate licensed facility for the individual so placed in an unlicensed facility. In unusual circumstances where an appropriate licensed facility is unavailable, the department may, with the prior written approval of the director of health, extend authorization for continued placement in the unlicensed facility at the end of the initial six-month period for an additional period not to exceed one year.”

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 346- Emergency placements in unlicensed adult family boarding homes. Placement of persons needing care in adult family boarding homes shall be authorized only in facilities duly licensed by the department except that in a bona fide emergency where no appropriate licensed facility is available, the department may authorize placement in an unlicensed facility; provided the department concurrently issues a special certificate authorizing such placement for a period not to exceed six consecutive calendar months; and provided further that immediate planning shall take place for the location of an appropriate licensed facility for the individual so placed in an unlicensed facility. In unusual circumstances where an appropriate licensed facility is unavailable, the department may, with the prior written approval of the director of social services, extend authorization for continued placement in the unlicensed facility at the end of the initial six-month period for an additional period not to exceed one year.”

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 5. This Act shall take effect on July 1, 1976.

(Approved April 28, 1976.)

*Edited accordingly.

ACT 30

S.B. NO. 251

A Bill for an Act Relating to Medical Research, Morbidity and Mortality Information.

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

SECTION 1. Section 324-21, Hawaii Revised Statutes, is amended to read:

"Sec. 324-21 Sources of information protected. Any person, public or private medical facility, or social or educational agency, may provide information, interviews, reports, statements, memoranda, or other data or relevant material relating to individuals with cancer to the Hawaii tumor registry. Such information may be used in the course of any cancer research study approved by the cancer commission of the Hawaii medical association.

Hospitals, skilled nursing homes and intermediate care homes shall submit a report of any person admitted with or diagnosed as having cancer to the Hawaii tumor registry on a form approved by the cancer commission of the Hawaii medical association. The Hawaii tumor registry staff may assist such hospitals and institutions in the preparation of such report forms.

No liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided the information or material, or by reason of having released or published the findings, conclusions, and summaries of the researchers to advanced medical research and medical education."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 3, 1976.)

ACT 31

S.B. NO. 1553

A Bill for an Act Relating to the Hawaii Food, Drug, and Cosmetic Act.

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

SECTION 1. Section 328-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 328-6 Prohibited acts. The following acts and the causing thereof within the State by any person are prohibited:

- (1) The manufacture, sale, delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) The adulteration or misbranding of any food, drug, device, or cosmetic;
- (3) The receipt in commerce of any food, drug, device, or cosmetic that is

*Edited accordingly.

- adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 328-11, 328-12 or 328-17;
 - (5) The dissemination of any false advertisement;
 - (6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by sections 328-22, 328-23 to 328-27, or to permit access to or copying of any record as authorized by section 328-23;
 - (7) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State from whom he received in good faith the food, drug, device, or cosmetic;
 - (8) The removal or disposal of a detained or embargoed article in violation of sections 328-25 to 328-27;
 - (9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being adulterated or misbranded;
 - (10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under this part or the Federal Act;
 - (11) The using, on the labeling of any drug or in any advertisement relating to the drug, of any representation or suggestion that an application with respect to the drug is effective under section 328-17, or that the drug complies with the provisions of such section;
 - (12) The using by any person to his own advantage, or revealing other than to the department of health or to the courts when relevant in any judicial proceeding under this part, any information acquired under authority of section 328-11, 328-12, 328-17, or 328-23, concerning any method or process which as a trade secret is entitled to protection;
 - (13) In the case of a prescription drug distributed or offered for sale in this State, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer the drug who makes written request for information as to the drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this part;
 - (14) (A) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or

- (B) Selling, dispensing, disposing of, or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by clause (A) hereof; or
 - (C) Making, selling, disposing of, or causing to be made, sold or disposed of, or keeping in possession, control, or custody, or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device, or container thereof;
- (15) Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without express permission in each case of the person ordering or prescribing;
- (16) The distribution in commerce of a consumer commodity as defined in this part, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this part and of regulations promulgated under authority of this part; provided that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled;
- (17) The selling or dispensing in restaurants, soda fountains, drive-ins, lunch wagons, or similar public eating establishments of imitation milk and imitation milk products in place of fresh milk and fresh milk products respectively; of liquid or dry products which simulate cream but do not comply with content requirements for cream in place of cream; of non-dairy frozen desserts which do not comply with content requirements for dairy frozen desserts in place of dairy frozen desserts; and of any other imitation food or one made in semblance of a genuine food in place of such genuine food, unless the consumer is notified by either proper labeling or conspicuous posted signs or conspicuous notices on menu cards and advertisements informing of such substitution, to include but not limited to the substitution of imitation milk in milk shake and malted milk drinks."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 3, 1976.)

*Edited accordingly.

A Bill for an Act Relating to Consumer Sales.

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

SECTION 1. Section 476-1, Hawaii Revised Statutes, is amended by deleting the definition of "house-to-house sale."

SECTION 2. Section 476-2, Hawaii Revised Statutes, is amended to read:

"Sec. 476-2 General requirements of retail installment contracts. Every retail installment contract shall be in writing, shall contain all the agreements of, and shall be signed by, the parties; provided, that the contract may provide for purchases to be made by the buyer from time to time and shall be effective as to such purchases. If the contract provides for purchases to be made from time to time, the contract shall contain the notice required by the third paragraph hereof and the amount or rate of the finance charge applicable to purchases thereunder. The sales slip or other written statement or evidence with respect to each such purchase shall be furnished to the buyer promptly following each purchase and may at the option of the seller set forth the information required by section 476-3 or section 476-29.

The printed, handwritten, or typewritten portion of the contract shall be in a size at least equivalent to eight-point type. The contract shall contain, in a size and style equal at least to ten-point bold type if printed, upper case elite type if typewritten and equivalent thereto if handwritten, the words, "RETAIL INSTALLMENT CONTRACT" both at the top of the contract and directly above the space reserved for the signature of the buyer, and the words "NOTICE TO THE BUYER" as set forth in the next paragraph.

The following notice shall appear immediately above the words "RETAIL INSTALLMENT CONTRACT" where they appear directly above the space reserved for the signature of the buyer: "NOTICE TO THE BUYER: 1. Do not sign this contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this contract when you sign it. 3. Under the law, you have the following rights, among others: (a) To pay off in advance the full amount due and to obtain a partial refund of the finance charge, if paid in advance; (b) Under certain conditions, to redeem the property if repossessed for a default."

The contract shall contain the names of the parties and their respective places of business or residence. Either the contract, or the sales slip or other written statement or evidence of the purchase required to be furnished to the buyer under this section, shall contain a description of the goods, including make, model, and identification number or marks, if any."

SECTION 3. Section 476-5, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 476-37, Hawaii Revised Statutes, is amended to read:

"Sec. 476-37 Attorney general, director of consumer protection or prosecutor to enforce chapter. The attorney general, the director of the office of consumer protection, or the prosecuting attorney may bring an action in the

name of the State against any person to restrain and prevent any violation of this chapter."

SECTION 5. The Hawaii Revised Statutes is amended by adding a new chapter to read:

"CHAPTER 481C DOOR-TO-DOOR SALE

Sec. 481C-1 Definitions. In this chapter, unless the context or subject matter otherwise requires:

- (1) "Door-to-door sale" means (A) a sale of goods or services solicited in person and signed by the buyer at a place other than the seller's business address shown on the contract; or (B) a sale of goods or services solicited in person or by mail, telephone; or public or private notice or advertisement if the solicitation includes an offer of a gift, prize, premiums, stamps, coupons, tickets or other redeemable devices as an inducement for the person solicited or a member of his immediate family to go to the seller's place of business, whether the buyer signs at the seller's place of business or elsewhere.

The term 'door-to-door sale' does not include a transaction:

- (a) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or
 - (b) In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days; or
 - (c) Conducted and consummated entirely by mail or telephone; and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services; or
 - (d) In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion.
- (2) "Goods" means all chattels, personal other than money and things in action, except as herein provided, and includes emblems, growing crops, and things which attach to or form a part of land which are agreed to be severed before sale under the contract and things which at

the time of sale or subsequently are to be so affixed to real property as to become a part thereof, whether or not severable therefrom. The term includes merchandise certificates or coupons, issued by a seller, to be used in their face amount in lieu of cash in exchange for goods sold by such a seller. The term also includes services as herein defined.

- (3) "Services" means work, labor, or service of any kind whether purchased primarily for personal, family or household use, and whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods, and includes repairs, alterations, or improvements upon or in connection with real property.
- (4) "Seller" means any person, partnership, corporation, association, or other group however organized engaged in the door-to-door sale of goods or services.
- (5) "Sale" means and includes any sale with a purchase price of \$5 or more, or \$25 if the merchandise is capable of being delivered at one time, other than for resale, of goods to a buyer pursuant to a contract. It does not include a sale to a business establishment.
- (6) "Contract" means and includes any agreement, including a conditional sales contract or any other form of instrument, evidencing an obligation to pay the purchase price, or moneys advanced in payment of the purchase price of goods, by payment thereof in one payment, or more than one payment made in installments over a period of time, whether or not the contract contains a title retention provision.
- (7) "Cash sale price" means the cash sale price stated in a contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the goods which are the subject matter of the contract if the sale were a sale for cash instead of by payments made in installments over a period of time. The cash sale price may include taxes, registration, license, and other fees and charges for accessories and their installation and for delivering, servicing, repairing, or improving the goods.
- (8) "Business day" means any calendar day, except Saturday, Sunday, or any State or Federal holiday.

Sec. 481C-2 Deceptive trade practice. In connection with any door-to-door sale, it constitutes an unfair or deceptive act or practice for the seller to:

- (1) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and which gives a description of the goods, including make, model, and identification number of marks, if any, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size to ten points, a statement in substantially the following form:

YOU, THE BUYER, MAY CANCEL THIS TRANSACTION
AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD

BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

- (2) Fail to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten-point bold face type the following information and statements in the same language as that used in the contract:

NOTICE OF CANCELLATION

(Enter date of transaction)

(Date)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENT MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION

ACT 32

NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A
TELEGRAM, TO (Name of seller), AT (Address of seller's place
of business) NOT LATER THAN MIDNIGHT OF

(Date)

I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's signature)

- (3) Fail, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.
- (4) Include in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this chapter including specifically his right to cancel the sale in accordance with the provisions of this chapter.
- (5) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.
- (6) Misrepresent in any manner the buyer's right to cancel.
- (7) Fail or refuse to honor any valid notice of cancellation by a buyer and within ten business days after the receipt of such notice, to (A) refund all payments made under the contract or sale; (B) return any goods or property traded in, in substantially as good condition as when received by the seller; (C) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.
- (8) Negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.
- (9) Fail, within ten business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.
- (10) Fail, if the seller's services result in the alteration of the property of the buyer, to restore the property to substantially as good condition as it was prior to the time the services were rendered.

Sec. 481C-3 Balloon payments. With respect to any sale of goods purchased primarily for a personal, family or household purpose, which is subject to the provisions of this chapter, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer has the right

to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. These provisions do not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer.

Sec. 481C-4 Penalties. (a) Any seller who engages in an unfair or deceptive act or practice in violation of this chapter, shall be fined by a sum of not less than \$500 nor more than \$2500 for each unfair or deceptive act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection.

(b) If a seller engages in an unfair or deceptive act in violation of this chapter, the contract referred to in section 481C-1 shall be unenforceable by the seller.

Sec. 481C-5 Inconsistencies with Federal laws. No contract shall be required by this chapter to contain provisions which are directly inconsistent with the Federal laws relating to door-to-door sales. A provision under this chapter is not directly inconsistent with the Federal laws relating to door-to-door sales, if it provides greater protection to the consumer.

Sec. 481C-6 Compliance with retail installment contract law. If the contract referred to in section 481C-1 is a retail installment contract, the seller must also comply with the requirements of chapter 476."

SECTION 6. Statutory material to be repealed is bracketed. New material in existing sections and new sections are underscored. New chapters are not underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 3, 1976.)

ACT 33

S.B. NO. 1785-76

A Bill for an Act Relating to Civil Penalties for Violations of Injunctive Orders.

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

SECTION 1. Section 480-15.1, Hawaii Revised Statutes, is amended to read:

"Sec. 480-15.1 Penalty. Any person, firm, company, association, or corporation violating an injunctive order to cease and desist from violating any provisions of this chapter shall be fined by a sum not less than \$500 nor more than \$10,000, which sum shall be collected in a civil action brought by the attorney general or the director of the office of consumer protection on behalf of the State. Each separate violation of any such order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the court, each day of continuance of such failure shall constitute a separate offense."

*Edited accordingly.

ACT 34

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 3, 1976.)

ACT 34

S.B. NO. 2024-76

A Bill for an Act Relating to Sabbatical Leaves.

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

SECTION 1. Section 76-33, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 76-33 Sabbatical leave. Any employee who has been employed by the State or any county for seven consecutive years may upon application to and with the approval of his department head be granted a sabbatical leave of absence by the appointing authority for not more than one year, provided that the two years of employment next preceding the application has been with the same department. The employee shall have the right to return to his position at the expiration of the sabbatical leave of absence. The employee on sabbatical leave shall be paid an amount equal to one-half of the basic compensation which he was receiving at the commencement of the leave. The payments shall be made in regular monthly installments, the last two of which shall not be made until after he has returned to work with the jurisdiction which granted him the leave. The employee shall agree to return to work upon termination of sabbatical leave or any other leave which may be granted immediately following the sabbatical leave. If the employee fails to report for work upon termination of sabbatical and any other leave granted, he shall be considered to have resigned and shall refund all moneys received while on sabbatical leave. Upon return from sabbatical and any other leave, the employee shall agree to work in the appropriate department for a period of two continuous years. If the employee fails to do so, he shall refund all moneys received while on sabbatical leave. An employee on sabbatical leave shall not engage in any form of employment which interferes with his professional education and training and as shall be approved by his department head. An employee granted sabbatical leave shall not by reason thereof be deprived of any accumulated vacation allowance or sick leave but shall accrue no additional vacation allowance or sick leave during the period of the leave. Upon the employee's return from sabbatical leave he shall have the same salary rating that he had at the time of taking the leave and his increment date shall be advanced equivalent to the duration of the leave."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 3, 1976.)

*Edited accordingly.

ACT 35

S.B. NO. 2027-76

A Bill for an Act Relating to Reallocation.

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

SECTION 1. Section 76-13, Hawaii Revised Statutes, is hereby amended to read as follows:

"Sec. 76-13 Specific duties and powers of director. The director of personnel services shall direct and supervise all the administrative and technical activities of his department. In addition to other duties imposed upon him by this chapter and chapter 77, he shall:

- (1) Attend all meetings of the commission;
- (2) Establish and maintain a roster of all persons in the civil service in which shall be set forth, as to each, the class of position held, the salary or pay, any change in class, title, pay, or status, and any other necessary data;
- (3) Appoint such assistants and employees as may be necessary to assist him in the proper performance of his duties and for which appropriations shall have been made;
- (4) Foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee efficiency;
- (5) Cooperate fully with appointing authorities in the administration of this chapter and chapter 77 in order to promote public service and establish conditions of service which will attract and retain employees of character and capacity, and to increase efficiency and economy in governmental departments by the improvement of methods of personnel administration with full recognition of the requirements and needs of management;
- (6) Encourage and exercise leadership in the development of effective personnel administration within the several departments in civil service and make available the facilities of his department to this end;
- (7) Investigate from time to time the operation and effect of this chapter and chapter 77 and of the rules adopted thereunder;
- (8) Develop and maintain a position classification plan; and
 - (A) Create and adjust classes of positions and adopt class specifications including title, description of typical duties and responsibilities, statement of training and experience and other requirements to be met by applicants, covering all positions;
 - (B) Allocate each position and each newly created position to the appropriate class;
 - (C) Reallocate positions to recognize material changes in duties and responsibilities or to correct a previous action. Reallocations shall be made effective retroactively to the beginning of the pay period immediately following the date the application for [reclassification] reallocation was filed with the director or such other date as provided by the rules and regulations; provided, that an employee who is otherwise properly compensated shall not be

ACT 36

- required to make reimbursement of overpayment in salary when such overpayment is due to salary increments or repricing actions nullified by the retroactive feature of a classification action; and provided, further, that the proper salary adjustment shall be made as of the first pay period following the action taken by the director;
- (D) Determine the status of employees holding positions affected by classification actions;
- (9) Perform any other lawful acts deemed by him to be necessary or desirable to carry out the purposes and provisions of this part.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

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

(Approved May 3, 1976.)

ACT 36

S.B. NO. 2028-76

A Bill for an Act Relating to Pay of Officers and Employees on Active Military Service.

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

SECTION 1. Section 79-20, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 79-20 Pay of officers and employees on active military service. All officers and employees of the State and the several counties who are appointed for at least six months of service shall be entitled, while on active duty or during periods of camps of instruction or field maneuvers as members of the Hawaii national guard, air 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 State, to receive pay as provided by law. During the absence of the officer or employee, while in the performance of ordered military or naval duty as a member of the national guard, air 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 working days in any calendar year, except that if he is called to active duty or otherwise required to report for camp training or field maneuvers by official military orders a second time within a calendar year, he may elect to use the fifteen working days of the succeeding calendar year which he is entitled to for such purposes within the current calendar year; provided that his entitlement to such fifteen working days under this section for the succeeding calendar year shall be cancelled and he shall so agree in writing."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

*Edited accordingly.

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

(Approved May 3, 1976.)

ACT 37

S.B. NO. 2095-76

A Bill for an Act Relating to the Oahu Metropolitan Planning Organization.

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

SECTION 1. Purpose. The purpose of this Act is to provide all civil service benefits to all employees of the Oahu Metropolitan Planning Organization.

SECTION 2. Section 279E-5 of the Hawaii Revised Statutes is amended to read as follows:

"Section 5. Staff and funding. Each MPO shall have a fulltime staff independent of State and County agencies. The MPO Policy shall appoint all members of the staff, none of whom shall be subject to chapters 76 and 77 of the Hawaii Revised Statutes. All other benefits generally applicable to the officers and employees of the State shall apply to staff members of the MPO and be retroactive to the effective date of initial hiring for existing staff. Nothing herein shall be deemed to prohibit the MPO from utilizing, through contractual arrangements, the staff resources of other local agencies, state agencies, and other quasi-public or private organizations to assist the MPO in its functions.

During the remainder of fiscal year 1975 and during fiscal year 1976 each MPO is authorized to have not less than the equivalent staff positions authorized for the present organizations responsible for metropolitan transportation planning and designated in accordance with the provisions of 23 U.S.C. 134.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 3, 1976.)

ACT 38

S.B. NO 2140-76

A Bill for an Act Relating to Estimate for Motor Vehicle Repair.

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

SECTION 1. Section 437B-15, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 437B-15 Estimate for labor and parts. The motor vehicle repair dealer, mechanic, or apprentice shall give the customer a written estimated price for labor and parts necessary for a specific job prior to commencement of the job.

*Edited accordingly.

ACT 39

Such written estimated price need not be given if waived in writing by the customer. No charge in excess of fifteen per cent of the estimated price, if the estimated price is less than \$100, or ten per cent of the estimated price, if the estimated price is in excess of \$100, shall be charged for parts and labor supplied in excess of the estimated price, without the prior written or oral consent of the customer. Such consent shall be obtained at some time after it is determined that the estimated price is insufficient and before the labor not estimated is performed or the parts not estimated are supplied. This provision may be waived in writing by the customer, provided that such waiver by its terms shall be effective only after the dealer or mechanic has made reasonable efforts to contact the customer. The form and content of any waiver shall be as prescribed by rule of the board. Nothing in this section shall be construed as requiring a motor vehicle repair dealer, mechanic, or apprentice to give a written estimated price if the dealer, mechanic, or apprentice does not agree to perform the requested service. A reasonable fee may be charged for making the estimate."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material or the underscoring.*

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

(Approved May 3, 1976.)

ACT 39

S.B. NO. 2230-76

A Bill for an Act Relating to the Liquor Tax Law.

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

SECTION 1. Section 244-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 244-4 Tax; limitations. Every person who sells or uses any liquor not taxable under this chapter in respect of the transaction by which such person or his vendor acquired such liquor, shall pay an excise tax which is hereby imposed, equal to twenty per cent of the wholesale price of the liquor so sold or used; provided, that the tax shall be paid only once upon the same liquor; provided, further, that the tax shall not apply to:

- (1) Liquor held for sale by a permittee but not yet sold;
- (2) Liquor sold by one permittee to another permittee;
- (3) Liquor which is neither delivered in the State nor to be used in the State, or which under the Constitution and laws of the United States cannot be legally subjected to the tax imposed by this chapter so long as and to the extent to which the State is without power to impose the tax;
- (4) Liquor sold for sacramental purposes or the use of liquor for sacramental purposes, or any liquor imported pursuant to section 281-33;

*Edited accordingly.

- (5) Alcohol sold pursuant to section 281-37 to a person holding a purchase permit or prescription therefor, or any sale or use of alcohol, so purchased, for other than beverage purposes;
- (6) Okolehao manufactured in the State for the period May 17, 1971 to June 30, 1981; or
- (7) Any fruit wine manufactured in the State from products grown in the State for the period May 17, 1976 to June 30, 1981."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act, upon its approval, shall take effect on May 17, 1976.

(Approved May 3, 1976.)

ACT 40

S.B. NO. 2235-76

A Bill for an Act Relating to Secondary School Students Conference.

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

SECTION 1. Section 317-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 317-2 Student Conference Committee. There is created a student conference committee composed of sixteen students to be appointed by the governor. There shall be two students from each of the seven local school districts and two students from schools represented by the Hawaii Association of Independent Schools. The governor shall assign one or more of his staff members to assist in the conduct of the conference."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 3, 1976.)

ACT 41

S.B. NO. 2330-76

A Bill for an Act Relating to the Hawaii Public Employment Relations Board.

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

SECTION 1. Section 89-5(a), Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

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

The members shall devote full time to their duties as members of the board. The salary of the chairman of the board shall be the same as the salary of a circuit court judge. Each of the other members shall be paid a salary at a rate of ninety-five per cent of the chairman's salary. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its findings of fact and conclusions. Three members of the board, consisting of the chairman, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint any acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairman of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. The provisions of section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from

chapters 76 and 77. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

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

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 3, 1976.)

ACT 42

S.B. NO. 2654-76

A Bill for an Act to Repeal Act 176, Session Laws of Hawaii 1937, which Appropriated Funds for Beds for Indigent Maternity Patients.

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

SECTION 1. Act 176, Session Laws of Hawaii 1937, appropriating funds for the maintenance of free beds at the Kapiolani Maternity & Gynecological Hospital, is repealed.

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

(Approved May 3, 1976.)

ACT 43

S.B. NO. 2884-76

A Bill for an Act Relating to the Appointment of an Executive Officer by the State Land Use Commission and the Exemption of the Position from Civil Service Status.

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

SECTION 1. Section 205-1, Hawaii Revised Statutes, is amended to read:

"Sec. 205-1 Establishment of the commission. There shall be a state land use commission, hereinafter called the commission. The commission shall consist of nine members who shall hold no other public office and shall be appointed in the manner and serve for the term set forth in section 26-34. One member shall be appointed from each of the counties and the remainder shall be appointed at large. The commission shall elect its chairman from one of its members. The members shall receive no compensation for their services on the commission, but shall be reimbursed for actual expenses incurred in the performance of their duties. Six affirmative votes shall be necessary for any boundary amendment.

*Edited accordingly.

ACT 44

The commission shall be a part of the department of planning and economic development for administration purposes, as provided for in section 26-35.

The commission may engage employees necessary to perform its duties, including administrative personnel and an executive officer. The executive officer shall be appointed by the commission and his position shall be exempt from civil service. Departments of the state government shall make available to the commission such data, facilities, and personnel as are necessary for it to perform its duties. The commission may receive and utilize gifts and any funds from the federal or other governmental agencies. It shall adopt rules guiding its conduct, maintain a record of its activities and accomplishments, and make recommendations to the governor and to the legislature through the governor."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 3, 1976.)

ACT 44

S.B. NO. 1169

A Bill for an Act Relating to Penalties for Traffic Violations.

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

SECTION 1. Section 291C-161, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 291C-161 Penalties. (a) It is a misdemeanor for any person to violate any of the provisions of this chapter unless the violation is by other law of this State declared to be a felony.

(b) Every person who violates any provision of this chapter for which another penalty is not provided, shall for a first conviction thereof be fined not more than \$100 or imprisoned not more than ten days; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200 or imprisoned not more than twenty days, or by both fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 or imprisoned not more than six months, or by both fine and imprisonment.

(c) The courts may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to him for any traffic violation."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 5, 1976.)

*Edited accordingly.

A Bill for an Act Relating to Odometers.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter 292 to read:

“CHAPTER 292

ODOMETER ACCURACY AND RECORD MAINTENANCE

Sec. 292-1 Findings. The purpose of this chapter is to assure the accuracy of the odometer system installed in certain passenger cars introduced into the State for use, for sale, or for resale, for lease, or for re-lease, for rental, or for rental and to any of the above cars when they are intended for export.

The legislature finds that the automotive industry is cognizant of the concern of the public in regard to the over-registration of passenger car odometers, or the fraudulent manipulation thereof, and is desirous of assisting in eliminating such activities and prohibiting the inclusion of any mileage measuring device in a passenger car that does not comply with the accuracy requirements of the national bureau of standards for commercial odometers or with the society of automotive engineers' recommended practices, SAE J678d and J862b, as applicable.

Sec. 292-2 Definitions. For the purposes of this chapter:

- (1) “Certificate of accuracy” means a written warranty attesting to the initial accuracy of an odometer system, and the endorsement thereon.
- (2) “Certificate of ownership” has the meaning under section 286-47.
- (3) “Director” means the director of agriculture, or his designated representative.
- (4) “Endorsement” means the entry of the odometer reading by the seller, at the time of sale, upon the certificate of ownership or certificate of accuracy.
- (5) “Odometer” is an analog or digital device that represents the miles traveled.

Sec. 292-3 Verification and endorsement required; upon initial introduction into State. Except as by rule provided, every motor vehicle from model year 1972 and later shall have its odometer accuracy verified upon entry into the State prior to being registered. Such verification shall be conducted in a manner as prescribed by the director, and such verification shall be endorsed on the certificate of ownership or certificate of accuracy by the director.

Sec. 292-4 Endorsement by seller required; upon subsequent transfer of title. Any motor vehicle, the title of which changes and whose model year does not exceed twenty-five years shall have its certificate of ownership or certificate of accuracy endorsed by the seller at the time of title transfer, each time the title transfers and when title transfers incident to export, provided that this section shall not apply to persons vested with only a security interest.

Sec. 292-5 Licensing without endorsement; prohibited. Any other law or

regulation to the contrary notwithstanding, no motor vehicle required to have a certificate of ownership or certificate of accuracy endorsement under section 292-3 or 292-4 shall be licensed for operation within the State by any licensing agency without such endorsement duly endorsed.

Sec. 292-6 Properly functioning odometer required. No person shall introduce into the State for any purpose whatever, nor operate within the State for any purpose whatever, a motor vehicle unless it has installed a properly functioning and correctly calibrated odometer.

Sec. 292-7 Tampering with motor vehicle odometer prohibited; misrepresentation of mileage prohibited. (a) It shall be unlawful to:

- (1) Tamper with an odometer, installed in a motor vehicle, for any purpose. This section shall not be construed to preclude legitimate repair, replacement or adjustment of an odometer authorized by the director or his designated representative.
- (2) Advertise for sale, sell, rent, lease, export, any motor vehicle, the odometer of which has been tampered with in such a fashion or manner as to mislead the prospective buyer to believe that the motor vehicle traveled a lesser distance than it actually has traveled.
- (3) Operate a motor vehicle on any street or highway, knowing that the odometer of the motor vehicle is disconnected or nonfunctional with intent to defraud.
- (4) Disconnect, turn back, advance, or reset the odometer of any motor vehicle with intent to alter the mileage indicated on the odometer, unless authorized by the director or his designated representative.

(b) This section shall not apply to the installation, maintenance, repair, or replacement of odometers when such action is necessary to cause compliance with this chapter, nor shall it apply to taximeter installation, maintenance or repair.

Sec. 292-8 Citation and notice to appear; penalty. The director may issue to any person violating this chapter, a citation and notice to appear, at a given time and place, to answer to charges against him.

The form, contents, copy designation and disposition, and appearance dates of such citation and notice to appear shall be prescribed by the district courts.

When a complaint of the violation of this chapter, including any rules adopted thereunder, is made to any prosecuting officer, the arresting officer or employee who issued the citation and notice to appear shall subscribe to it under oath administered by another official or officials of the department, whose name has been submitted to the prosecuting officer and who has been designated by the director to administer the same.

The director may, for a period not to exceed ninety-six hours, impound as evidence any motor vehicle in which an inaccurate or incorrect or inoperable odometer system is installed or exists. Such period may be extended by order of the court.

The director may confiscate as evidence any tools designed to change, manipulate, or otherwise alter the display of an odometer, when he has reason to believe that such tools may be used in an illicit manner or by persons other than

licensed dealers, or licensed repair agencies, or by persons gainfully employed by such agencies or dealers.

The director may stop or direct any vehicle subject to this chapter and require the driver or custodian of the vehicle to move the vehicle to a designated place for inspection of the vehicle or its odometer system.

The director may schedule for inspection such vehicle or vehicles, to be at a designated place at a specific time, and failure to stop, move, or present the motor vehicle as directed or scheduled shall be a violation of this chapter.

Sec. 292-9 Authority to inspect. The director may upon his own initiative or upon complaint, after properly identifying or making a legitimate effort to identify himself, enter upon any public or private property, in accordance with law, where odometers may reasonably be stored, held, sold, repaired, altered, manipulated, or otherwise influenced so as to display any digital or analog representation, factual or otherwise, to determine if any actions relating to odometers are being conducted contrary to law.

Sec. 292-10 Fees. Every motor vehicle covered by section 292-3 shall be assessed a verification fee for the initial verification of the accuracy of the odometer system. Such fee shall be levied only once, for each motor vehicle, and shall be payable in an amount and manner as may be prescribed by rule of the director.

Sec. 292-11 Revolving fund. There is hereby established an odometer enforcement revolving fund into which the director shall deposit all revenue generated under section 292-10. Such funds shall be expended by the director for the enforcement of this chapter and the rules adopted hereunder, as well as costs incident to accounting, personnel, travel, equipment, and supplies, contracting or subcontracting, or any other purpose deemed necessary for the enforcement of this chapter by the director. Such funds shall revert to the general fund on July 1, 1981.

Sec. 292-12 Civil action. (a) Any person who, with intent to defraud, violates any requirement imposed under this chapter shall be liable in an amount equal to the sum of:

- (1) Three times the amount of actual damages sustained or \$1,500, whichever is the greater; and
- (2) In the case of any successful action to enforce the foregoing liability, the costs of the action together with reasonable attorney fees as determined by the court.

(b) An action to enforce any liability created under subsection (a) of this section may be brought in a court of competent jurisdiction without regard to the amount in controversy, within two years from the date on which the liability occurred.

Sec. 292-13 Disclosure requirements. All certificates of ownership, as issued by the respective counties, shall by license year 1980 be standardized in a form to be prescribed by the director of administrative services for district courts, and such certificates shall have on the reverse side thereof space for entering endorsements, among other requirements established under section 286-47. Each

certificate shall have, in printed form on the bottom of the reverse side, the following statement: "The last endorsement hereon reflects the license plate number and the odometer indication on the date of title transfer; it is accurate to the best of my knowledge and I understand an inaccurate statement may make me liable to the transferee, pursuant to Chapter 292, Hawaii Revised Statutes, and Section 409(A) of the Federal Motor Vehicle Information and Cost Savings Act of 1972."

Sec. 292-14 Certificate of accuracy; discontinuation. Revision of certificate of ownership by license year 1980, as required under section 292-13, will negate the need for a separate document such as the certificate of accuracy; and: excepting those cases where the absence of such a document would impede or preclude a legitimate title transfer, its continued use after 1980 is restricted thereto.

Sec. 292-15 Rules; authority to adopt. The director shall adopt or amend, from time to time, the necessary rules to implement this chapter. Such rules shall be adopted in accordance with chapter 91.

Sec. 292-16 Injunction. In addition to any other remedy by law provided, the director may, through the department of the attorney general, apply to any court of competent jurisdiction for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating this chapter.

Sec. 292-17 Penalties. Any person guilty of committing any of the prohibited acts or omitting any of the required acts of this chapter shall be guilty of a misdemeanor and shall be fined not less than \$200 nor more than \$500, or be imprisoned not to exceed 90 days, for such first offense and, upon each subsequent violation, shall be fined not less than \$500 nor more than \$1,000, or be imprisoned for a period not to exceed one year, or suffer both such fine and imprisonment.

Sec. 292-18 Applicability. The term "motor vehicle," as used herein, shall be applicable to passenger vehicles having a capacity of twelve persons or less; recreational vehicles, excluding two-wheel devices; and any other highway passenger car having a gross vehicle weight not exceeding 20,000 pounds. Such term shall not apply to off-highway and multi-purpose utility vehicles."

SECTION 2. Chapter 292, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 291-38, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 476-35.1, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*

SECTION 6. This Act shall take effect July 1, 1976.

(Approved May 5, 1976.)

*Edited accordingly.

ACT 46

S.B. NO. 1623

A Bill for an Act Relating to Sex Bias in Schools.

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

SECTION 1. Chapter 296, Hawaii Revised Statutes, is amended by adding a new part to read:

“PART IV. SEX BIAS

Sec. 296-60 Findings and declaration of necessity. The legislature finds that:

(a) The ideal of equal access to education in our public school system cannot be achieved when our students are required to assume stereotyped sexual roles. Under this sterile system, female students have been channeled into courses like homemaking or into career choices such as teaching or nursing or into extracurricular activities such as cheerleading. The male students have been expected to take shop or to select career choices such as law or engineering or to participate in sports.

(b) One of the striking trends of recent times has been the participation of women and men in activities, professions, and life styles that were previously considered to be the exclusive province of one particular sex. Our education system must reflect those changes. Curricular and extracurricular activities in our schools must be accessible to all students. It should be the goal of our public schools to allow each individual to develop his or her particular talents or interests.

Sec. 296-61 Student bias. No person in the State of Hawaii shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational or recreational program or activity receiving State or County financial assistance or utilizing State or County facilities.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 5, 1976.)

ACT 47

S.B. NO. 1798-76

A Bill for an Act Relating to the State Tort Liability Act.

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

SECTION 1. Chapter 662, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

*Edited accordingly.

ACT 48

"Sec. 662- Defense of State employees. The attorney general may defend any civil action or proceeding brought in any court against any employee of the State for damage to property or for personal injury, including death, resulting from the act or omission of any State employee while acting within the scope of his employment. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the attorney general, all process or complaint served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the department of the attorney general.

No judgment by default shall be entered against a State employee based on a cause of action arising out of an act or omission of such employee while acting within the scope of his employment unless the department of the attorney general has received a copy of the complaint or other relevant pleadings and a period of twenty days has elapsed from the date of such receipt."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 5, 1976.)

ACT 48

S.B. NO. 1807-76

A Bill for an Act Relating to the Conversion of Certain Exempt Positions within the Department of Defense to Permanent Civil Service Status.

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

SECTION 1. **Purpose.** The purpose of this Act is to convert certain exempt positions which are non-military in character to civil service positions within the meaning of Chapters 76 and 77, Hawaii Revised Statutes.

SECTION 2. Notwithstanding the provisions of any law to the contrary, employees employed by the State in the Department of Defense who are not in the civil service system currently and who occupy the following non-military but exempt positions: (1) Building & Grounds Maintenance Superintendent; (2) Assistant Building & Grounds Maintenance Superintendent; (3) Public Information Technician; (4) Purchasing Agent; (5) Administrative Services Officer; (6) Fiscal Officer; and (7) Public Affairs Officer, shall be converted to permanent civil service status within the meaning of Chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination and shall be accorded all the rights, benefits and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit for retirement purposes, vacation and sick leave credits, and other rights and privileges accorded employees with

*Edited accordingly.

permanent civil service status. Positions held by such employees shall be allocated to the appropriate classes in the position classification plan and employees affected shall continue to receive at least the same rates of pay despite the change in status, provided that subsequent changes in position classification and pay may be made pursuant to applicable personnel laws.

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

(Approved May 5, 1976.)

ACT 49

S.B. NO. 1809-76

A Bill for an Act Relating to Agents of Private Schools and Correspondence Schools.

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

SECTION 1. Section 302-3, Hawaii Revised Statutes, is amended to read:

"Sec. 302-3 Solicitation of students. No agent representing any private school or correspondence school shall solicit students or sell any course in this State for profit or remuneration unless:

- (1) He first obtains a license from the department of education; and
- (2) He files and makes payable to the department a surety bond in the sum of \$2,000; such bond shall be conditioned to provide indemnification to any student suffering loss as a result of fraud or misinterpretation used in procuring his enrollment. The bond must be renewed annually if it is for less than a year.

Application for license shall be made on forms to be furnished by the department and shall be accompanied by a license fee of \$10 made payable to the department; provided that any application submitted on or after July 1 shall be accompanied by a license fee of \$5. The license shall be valid for one year from January 1 through December 31, unless it is revoked, canceled, or suspended for good cause after written notice and hearing is granted to the licensee. All licenses must be renewed annually prior to January 1. The renewal fee shall be \$10.

Upon granting the license, the department shall issue a card to the person giving his name and address, the name and address of the school that he represents, and certifying that the person whose name appears on the card is an authorized agent of the school. If the person represents more than one school, he shall obtain a separate license and shall receive a separate card for each school that he represents upon payment of a separate license or renewal fee. A license shall not be transferable and shall be returned to the department when the agent ceases to represent the school.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

*Edited accordingly.

ACT 50

SECTION 3. This act shall take effect upon its approval.

(Approved May 5, 1976.)

ACT 50

S.B. NO. 1825-76

A Bill for an Act Relating to the Use of the Special Land and Development Fund.

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

SECTION 1. Section 171-19, Hawaii Revised Statutes, is amended to read:

"Sec. 171-19 Special land and development fund. There is created in the department of land and natural resources a special fund to be designated as the "special land and development fund". Subject to the provisions contained in the Hawaiian Homes Commission Act of 1920, as amended, and in section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments, and all rents from leases, licenses, and permits derived from public lands shall be set apart in the fund and shall be used only as authorized by the legislature, except that, without such prior legislative authority, the board of land and natural resources may use the fund for the following purposes:

- (1) To reimburse the general fund of the State for advancements heretofore or hereafter made therefrom, which are required to be reimbursed from the proceeds of sales, leases, licenses, or permits derived from public lands;
- (2) For the incidental maintenance of all lands under the control and management of the board, including the repair of improvements thereon, not to exceed \$100,000 in any fiscal year;
- (3) To repurchase any land, including improvements thereon, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided, that all such reimbursable fees collected by the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter, provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules and regulations adopted by the board;
- (6) For the planning and construction of roads and trails along state rights-of-way not to exceed \$5,000 in any fiscal year;
- (7) For the payment to private land developer or developers who have contracted with the board for development of public lands under the provisions of section 171-60.

Notwithstanding the above provisions, but subject to the restrictions contained in section 5(f) of the Admission Act, whenever the board sells

remnants to abutting owners, the proceeds therefrom including interest on deferred payments, shall be deposited into the general fund; provided, that such proceeds shall be set apart to the appropriate fund where mandatory federal requirements affecting federal funds so require.

Notwithstanding the above limitations on use of the proceeds of sale, where the board sells public lands including the buildings thereon once used but no longer necessary for school purposes at the recommendation and request of the board of education, all net proceeds derived from the sales are hereby appropriated to the county wherein the sales occur for the acquisition of land or for the erection of buildings for school purposes to the extent of an approved building plan in the school district wherein the sales occur. In the absence of any school building program in the district or in the event of any surplus remaining after the completion of buildings constructed pursuant to the approved plan then the proceeds or surplus shall be used in other school districts in the county wherein the sales occur.

When use of the fund is authorized by the legislature for the development of public lands for a particular project, to be disposed of by sale, lease, license, or permit, the board may pay from the fund the costs of the development, including the costs of surveys, construction of roads, water lines, and sewer lines and such other improvements as may be necessary for the development of the lands; provided, that the project shall meet with the zoning and subdivision requirements of the appropriate county and city and county government in which the lands are located, except that plans and specifications for recreational projects, including access roads therefor, shall not be required to meet with such approval; and provided further, that no such development of public lands for disposal by sale, lease, license, or permit shall be made unless appropriate roads, water lines, and other improvements are installed which will make the land usable for the purpose for which it is being disposed at the time of disposition."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 5, 1976.)

A Bill for an Act Relating to Vacations of Public Officers and Employees.

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

SECTION 1. Section 79-1, Hawaii Revised Statutes, is amended to read:

"Sec. 79-1 Vacations of public officers and employees; exceptions. With the exception of school teachers, principals, and cafeteria managers employed in the

*Edited accordingly.

ACT 52

public schools of the State, the instructional staff of the University of Hawaii, members of the fire departments of the political subdivisions of the State, and persons employed pursuant to paragraphs (2), (3), (14), and (16) of section 76-16, paragraphs (g), (h), and (i) of section 5-603 of the charter of the city and county of Honolulu, and paragraphs (7), (8), and (12) of section 76-77, all officers and employees of the State or of the political subdivisions of the State and all full-time elected and appointive officers and employees of the State and the political subdivisions of the State shall be entitled to and granted a vacation with pay each calendar year calculated at the rate of one and three-quarters working days for each month of service. A month of service shall be deemed to mean a calendar month in which the employee performs not less than nineteen days of actual service or for calendar months with less than nineteen working days, actual service on all available working days. A provisional employee, as such, shall not be entitled to a vacation with pay, but he shall be entitled to earn and accrue vacation allowances during the term of his provisional appointment, and if upon the termination of his provisional appointment he receives a probationary or limited term or permanent appointment in the same position, he shall be credited with the allowances earned and accrued during the provisional appointment, but if he does not become such probationary or regular employee, the vacation allowances shall be automatically forfeited. Vacation allowances shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year.

An annual vacation, or any part thereof unused, shall be automatically accumulated for succeeding years, except that the total recorded accumulation shall be in no event more than ninety working days; provided, that not more than fifteen days a year may be accumulated unless prior approval is secured by the employee from his department head for the accumulation of the full amount, the accumulation to be granted only for good cause shown; and provided, further, that no employee shall be granted or permitted to take a vacation in any calendar year in excess of ninety working days, but whenever the employee's accumulated vacation credit exceeds ninety working days he shall be paid salary in lieu of vacation to the extent of the excess if, upon investigation by the comptroller of the State, the director of finance of the city and county of Honolulu, or the county auditor of the other counties, as the case may be, it is found that the excess vacation credit resulted from the employee's inability to be allowed vacation time off because of orders of his appointing authority; otherwise the employee shall automatically forfeit the excess."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

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

(Approved May 5, 1976.)

ACT 52

S.B. NO. 1854-76

A Bill for an Act Relating to School Buses.

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

SECTION 1. Section 291C-95, Hawaii Revised Statutes, is amended to read:

“Sec. 291C-95 Overtaking and passing school bus. (a) Whenever a school bus is stopped on a highway with its visual signals as described in subsection (g) of this section actuated, the driver of any motor vehicle on the same highway shall stop his vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or the visual signals are turned off.

(b) Subsection (a) shall not apply to a vehicle when the school bus and the vehicle are on different roadways.

(c) The driver of the school bus shall actuate the visual signals described in subsection (g) only when the school bus is stopped for the purpose of receiving or discharging school children:

- (1) On a highway outside of a business or residence district; and
- (2) At any other location where the use of such visual signals is required by county ordinance.

(d) The front and rear of every school bus shall be marked with the words “SCHOOL BUS” in plainly visible letters not less than eight inches in height and strokes not less than three-fourths of an inch in width.

(e) No vehicle, other than a school bus, shall display a “SCHOOL BUS” sign.

(f) When a school bus is being operated upon a highway for purposes other than as an incident to the transportation of children, all marking thereon indicating “SCHOOL BUS” shall be covered or concealed.

(g) The visual signals required under subsection (c) to be actuated shall consist of four red signal lamps meeting the following requirements:

- (1) Two lamps shall face forward and two shall face the rear;
- (2) The two forward lamps shall flash alternately and shall be mounted at the same level, but as high and as widely spaced as practical;
- (3) The two rear lamps shall flash alternately and shall be mounted at the same level but as high and as widely spaced as practical;
- (4) Each of the lamps shall be of sufficient intensity as to be plainly visible at a distance of five hundred feet in normal sunlight and shall be capable of being actuated from the driver's seat by a single switch.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 5, 1976.)

*Edited accordingly.

ACT 54

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

SECTION 1. Section 286-102, Hawaii Revised Statutes, is amended as follows:

“(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Motor scooters;
- (2) Motorcycles and motor scooters;
- (3) Passenger cars of any gross vehicle weight rating and trucks and buses having a gross vehicle weight rating of ten thousand pounds or less;
- (4) All of the motor vehicles in category (3) and buses with a gross vehicle weight rating of more than ten thousand pounds;
- (5) All of the motor vehicles in category (3) and trucks having a gross vehicle weight rating of more than ten thousand pounds, other than tractor-semitrailer combinations and truck-trailer combinations;
- (6) All of the motor vehicles in category (5) and tractor-semitrailer combinations;
- (7) All of the motor vehicles in category (6) and truck-trailer combinations;
- (8) All of the motor vehicles in categories (4) and (5);
- (9) All of the motor vehicles in categories (4) and (6);
- (10) All of the motor vehicles in categories (4) and (7).

A school bus operator must be properly licensed to operate the category of vehicles that he operates as a school bus and in addition must hold a department of education school bus operator certificate as provided by rules or regulations promulgated pursuant to section 286-181.

(c) A person operating the following motor vehicles shall not only be examined and duly licensed pursuant to subsection (b) to operate the particular category of motor vehicles but in addition shall be examined and certificated as provided in section 286-108.5 by a certificated fleet safety examiner:

- (1) Buses having a gross vehicle weight rating of more than 10,000 pounds;
- (2) Trucks having a gross vehicle weight rating of more than 10,000 pounds;
- (3) Tractor-semitrailers;
- (4) Truck-trailers.”

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 5, 1976.)

ACT 54

S.B. NO. 2031-76

A Bill for an Act Relating to Holidays.

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

*Edited accordingly.

SECTION 1. Section 8-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 8-2 Observance of holidays falling on Sundays and Saturdays. If any of the State's legal holidays fall on Sunday, the following Monday shall be observed as a holiday. If the day falls on Saturday, the preceding Friday shall be observed as a holiday."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 5, 1976.)

ACT 55

S.B. NO. 2080-76

A Bill for an Act Relating to Records of the Liquor Commission.

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

SECTION 1. Section 281-14, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 281-14 Records. The liquor commission shall ensure that complete records are kept of all commission meetings, proceedings, and acts with reference to all business pertaining to licenses issued, suspended, and revoked, moneys received as license fees and otherwise, and disbursements by the commission or under its authority, and these records shall be open for examination by the public. The records may be destroyed as provided in section 46-43."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon approval.

(Approved May 5, 1976.)

ACT 56

S.B. NO. 2105-76

A Bill for an Act Relating to Circuit Courts.

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

SECTION 1. Section 603-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 603-4 Other Circuits, Judges. The circuit court of the fifth circuit shall consist of one judge who shall be styled judge of the circuit court of the fifth circuit. The circuit courts of the second and third circuit shall consist of two

*Edited accordingly.

ACT 57

judges, who shall be styled, when there are two, as first and as second judge respectively, and each as a judge of the circuit court in which they are located."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. The Act shall take effect July 1, 1976.

(Approved May 5, 1976.)

ACT 57

S.B. NO. 2545-76

A Bill for an Act Relating to Conservation.

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

SECTION 1. **Findings and purpose.** The legislature finds that the natural fishponds of the State are a precious environmental, economic and social resource worthy of systematic protection. While many fishponds are owned by the State, and protected by rules of the board of land and natural resources, a large number of fishponds are owned by persons, who pay real property taxes upon such submerged areas as would be assessed upon property above sea level.

The legislature finds that many fishponds have been filled, and that the further loss of these resources must be prevented. Owners who wish to maintain and refurbish fishponds in their natural state must be permitted to perform periodic repairs, which are in some cases extensive due to the age of the fishpond walls and the susceptibility of the walls to damage by natural forces. Reinforcement and strengthening of fishpond walls are often necessary to prevent damage and potential economic losses of fish and aquacultural crops. But past expressions of concern by the legislature have led to the creation of an unwieldy bureaucracy which fishpond owners must face to obtain permission to perform repairs and preventive work: aspects of repairs and preventive work are under the jurisdiction of the board of land and natural resources, when the fishpond is located in a conservation district, and the land use commission and the county planning agency, when the fishpond is located within a shoreline setback area. An environmental impact statement may also be required. Obtaining permission to make necessary repairs may involve months of reporting and negotiation, and emergency repairs necessary to safeguard the fishpond from further natural damage are virtually impossible.

The purpose of this Act is to clarify the regulatory responsibilities of state and county agencies in regard to maintenance, repair, and improvement of fishponds, and to ensure that proper environmental safeguards are coupled with conditions encouraging retention of fishponds.

SECTION 2. Section 183-44, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

"Sec. 183-44 Fishponds; rules. (a) The board of land and natural resources shall adopt rules concerning the application and issuance of permits for the repair, strengthening, reinforcement, and maintenance of fishponds pursuant to section 183-41. The rules shall specify the extent:

- (1) Of repairs, strengthening, reinforcement, and maintenance for which no permit is necessary, but for which the owner shall be required to notify the board in writing of his intent to perform them which notification shall be submitted not less than ten days before performing the repairs, strengthening, reinforcement, or maintenance, and for which receipt and lack of action by the board within the ten-day notice period shall constitute approval;
 - (2) Of repairs, strengthening, reinforcement, and maintenance for which a permit shall be required which shall be requested in writing by the owner; and
- (b) For the purposes of this section:
- (1) "Emergency repairs" means that work necessary to repair damages to fishponds arising from natural forces or events human creation not due to the willful neglect of the owner, of such a character that the efficiency, esthetic character or health of the fishpond, neighboring activities of persons, or existing flora or fauna will be endangered in the absence of correction of existing conditions by repair, strengthening, reinforcement, or maintenance.
 - (2) "Repairs and maintenance" of fishponds means any work performed relative to the walls, floor, or other traditional natural feature of the fishpond and its appurtenances, the purposes of which are to maintain the fishpond in its natural state and safeguard it from damage from environmental and natural forces.

Repairs, strengthening, reinforcement, and maintenance and emergency repair of fishponds shall not be construed as actions "proposing any use" within the context of section 343-4."

SECTION 3. Section 205-36, Hawaii Revised Statutes, is amended to read:

"Sec. 205-36 Exemptions. Tunnels, canals, basins, and ditches, together with associated structures used by public utilities as the term is defined in section 269-1, wharves, docks, piers, and other harbor and waterfront improvements and any other maritime facility and water sport recreational facilities may be permitted within the shoreline area; provided that the plans therefor are submitted for review and are approved by the agency after a public hearing has been held and that the appropriate state body has found that the proposed structures will result only in a minimum interference with natural shoreline processes; provided further that any such structure constructed by a governmental body shall be exempt from the provisions of this part except as to the requirement that two public hearings shall be held by the governmental body charged with such construction, once when the project is first conceived and again when the project is substantially designed and planned, but prior to the letting of the contract. Repair, strengthening, reinforcement, and maintenance of

ACT 58

fishponds, and improvements for aquaculture farms shall be exempt from this chapter, upon issuance of a permit or waiver of the requirements for same by the board of land and natural resources.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 5, 1976.)

ACT 58

S.B. NO. 2933-76

A Bill for an Act Relating to the Hawaii Youth Correctional Facility.

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

SECTION 1. The purpose of this Act is to conform Chapter 352 pertaining to the Hawaii youth correctional facility with the change in the family court Act, Chapter 571, Hawaii Revised Statutes, to extend the jurisdiction of the family court over persons up to their nineteenth birthday so that persons may still be committed to the facility for a period up to their nineteenth birthday.

SECTION 2. Section 352-8, Hawaii Revised Statutes, is amended to read:

“Sec. 352-8 Object. The only object of the Hawaii youth correctional facility shall be the detention, management, education, employment, reformation, and maintenance of such children and adults as are committed thereto.”

SECTION 3. Section 352-9, Hawaii Revised Statutes, is amended to read:

“Sec. 352-9 Guardianship and custody of the person of inmates. Notwithstanding any law to the contrary, the director of social services and housing shall be the guardian of the person of every child committed to or received at the Hawaii youth correctional facility or have custody of any adult committed thereto or received at the Hawaii youth correctional facility while still a child for a term extending beyond age eighteen by order of the family court for the period the child or adult remains under his jurisdiction. He shall have all the powers and duties of a natural guardian of the person of the child; provided, that he shall not be liable in damages for the tortious acts committed by the child.”

SECTION 4. Section 352-10, Hawaii Revised Statutes, is amended to read:

“Sec. 352-10 Period committed. All persons committed to the Hawaii youth correctional facility shall be committed for the period of their minority provided however that commitment may be extended for a period not to extend beyond age nineteen, by order of the family court, or unless sooner paroled by the director of social services and housing.”

SECTION 5. Section 352-14, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

"Sec. 352-14 Parole to parents. Whenever the parents of any person who has been committed to the Hawaii youth correctional facility and who has then served not less than one year in the facility make application in writing to the director of social services and housing it shall be lawful for the director, in his discretion, to parole the person to its parents, such parole to be granted and continued in force only when it is apparent to the director that such action is for the best interests of the person and the community at large."

SECTION 6. Section 352-15, Hawaii Revised Statutes, is amended to read:

"Sec. 352-15 Home placements. The director of social services and housing, or his agents, if authorized by the director, may place any person, who is committed to the director under this chapter, in a suitable home for the purpose of securing to the person the benefits of schooling and a normal home life. Any action taken under this section shall be in the nature of a parole, and shall be revocable at any time at the discretion of the director. Funds appropriated under the item "home placements" and any other funds obtained for home placements may be used by the director to effectuate the purpose of this section."

SECTION 7. Section 352-26, Hawaii Revised Statutes, is amended to read:

"Sec. 352-26 Discharge, by whom. The director of social services and housing may, for good reasons shown to his satisfaction, discharge or temporarily release any child or adult committed to the Hawaii youth correctional facility, upon such terms and conditions as are approved by the director."

SECTION 8. Section 352-27, Hawaii Revised Statutes, is amended to read:

"Sec. 352-27 Transfer to jail. Whenever it is found that the continued detention or custody of any inmate of the Hawaii youth correctional facility at the facility is subversive of the order and discipline of the facility or injurious in any way to the other inmates of the facility, it shall be lawful for the judge of the family court, on representation to that effect being made by the director of social services and housing, or his authorized agents, to hear and determine any such case, and if proved to his satisfaction, the judge may, in the place of further detention or custody at the facility, order that such person, if he is of the age of fourteen years or more, be imprisoned at some public jail for any term not exceeding the unexpired residue of the time for which the inmate has been last committed to the facility."

SECTION 9. Section 352-28, Hawaii Revised Statutes, is amended to read:

"Sec. 352-28 Transfer back or discharge. If at any time after the commitment or transfer, as in section 352-27 authorized, of any inmate of the Hawaii youth correctional facility to an adult correctional facility, it is found that such person by his conduct gives reasonable proof of reformation, or for other good reason that is made to appear, it shall be lawful for the judge of the family court, after receiving satisfactory evidence thereof, to order the discharge of the

ACT 59

person from the adult correctional facility or to return him to the Hawaii youth correctional facility whenever requested so to do by the director or his authorized agents."

SECTION 10. Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the bracketed material, the brackets, or the underscoring.*

SECTION 12. This Act shall take effect upon its approval.

(Approved May 5, 1976.)

ACT 59

S.B. NO. 110

A Bill for an Act Relating to the Department of Health.

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

SECTION 1. Section 304-61, Hawaii Revised Statutes, is renumbered and amended to read as follows:

"Sec. 323-6 Transfer of employees; management of hospital, University of Hawaii programs, etc., cooperation. The employees of Leahi Hospital employed on July 1, 1976, are transferred to the department of health and shall thereafter be state employees and enjoy all of the rights, privileges, and benefits and be subject to the duties and responsibilities of employees of the State.

The department shall operate and manage Leahi Hospital and perform all acts necessary or convenient to such management and control. All acts heretofore performed in this connection by the university are hereby ratified and confirmed.

Nothing in this section shall affect in any way the educational, training, and research programs and activities, including the program under which child psychiatric services are provided, of the university of Hawaii at Leahi Hospital, on the existing date of this Act, and thereafter.

The department of health and the university of Hawaii shall, pursuant to contract or informal agreement, cooperate in arrangements appropriate to their respective jurisdictions and functions at Leahi Hospital.

Any other law to the contrary notwithstanding, Leahi Hospital shall place its revenues and all other moneys collected or acquired or made available for the use of the hospital into a special fund to be used for the payment of its lawful expenditures."

SECTION 2. Section 323-2, Hawaii Revised Statutes, is amended to read as follows:

*Edited accordingly.

"Sec. 323-2 Admittance to Leahi Hospital. Leahi Hospital may admit as patients, indigent and medically indigent persons who are suffering from chronic disease and such other patients as the director of health determines can be accommodated by the facility; provided that sufficient beds are at all times available to persons with tuberculosis eligible for admission to the hospital. The department of health may promulgate rules and regulations concerning the admission of such chronic disease and other patients and the reimbursement for their care and treatment.

Money appropriated to the Leahi Hospital for the care and treatment of tuberculosis patients may be used to care for patients suffering from chronic and other diseases who are admitted to the hospital."

SECTION 3. The functions and duties relating to Leahi Hospital are transferred from the university of Hawaii to the department of health as of July 1, 1976. The department of health shall succeed to all rights and powers exercised, and all of the duties and obligations exercised under contracts executed by the university in the exercise of the functions transferred, except as otherwise provided in this Act.

SECTION 4. (a) Every officer or employee of Leahi Hospital on the effective date of this Act who is a University of Hawaii faculty member and whose functions are transferred by this Act shall with the same pay and classification, be transferred to some other office or position within the university of Hawaii for which such officer or employee is eligible under the applicable personnel laws of the university of Hawaii as determined by the president of the university. Such officers and employees shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, education benefits granted employees of the university, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to section 304-11, Hawaii Revised Statutes.

(b) All officers and employees of Leahi Hospital on the effective date of this Act, other than those mentioned in subsection (a) whose functions are transferred by this Act shall be transferred with their functions to the department of health and shall continue to perform their regular duties upon transfer, subject to the provisions of state personnel laws and of this Act.

No tenured officer or employee of the State shall suffer loss of salary, seniority, prior service credit, vacation, sick leave, education benefits granted employees of the university, or other employee benefit or privilege as a consequence of this Act. Any such tenured officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that such employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An employee of the State who does not have tenure and who is transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, education benefits granted employees of the university, or other employee benefits or privileges and without the necessity of examination;

ACT 59

provided that such employee or officer possesses the minimum qualifications for the position to which he is transferred or appointed.

In the event that an office or position held by a tenured officer or employee is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 5. (a) Any other law to the contrary notwithstanding, all moneys appropriated by the eighth legislature and prior legislatures to the university of Hawaii for the use of Leahi Hospital and the management of the hospital pursuant to section 323-2, Hawaii Revised Statutes, and the appropriated and unexpended funds for that purpose in the biennium budget for the fiscal years beginning July 1, 1975 and ending on June 30, 1977, for Leahi Hospital shall be transferred from the university of Hawaii to the department of health, except with approval of the governor the university of Hawaii may retain such positions and related funds to absorb the costs of the faculty members who elect to remain with the university.

(b) Any other law to the contrary notwithstanding, all capital improvement appropriations for Leahi Hospital authorizing expenditure by the university of Hawaii shall be transferred to the department of accounting and general services for use as stated in such appropriations.

SECTION 6. The university of Hawaii may, in its discretion, transfer to the department of health such Leahi Hospital records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property, under such terms and conditions as it deems appropriate for purposes of operating and managing Leahi Hospital.

SECTION 7. The department of health and the university of Hawaii may enter into contracts for the continuation of faculty members in their present positions or for the placement of future faculty members in positions at Leahi Hospital. Such contracts may provide for full-time or less than full-time employment at Leahi Hospital. The department of health and the university of Hawaii may enter into such other contracts as may be necessary.

SECTION 8. Except as otherwise provided in this Act, this Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date; provided that on July 1, 1976 the State of Hawaii shall be substituted for the university of Hawaii as a party in any court action begun prior to July 1, 1976.

SECTION 9. Nothing in this Act shall constitute or be construed to constitute a transfer of any right or interest in or to any real property or any improvement thereto held by the university, nor shall this Act or any provision herein derogate in any manner from the right, interest, or title of the university of Hawaii in or to any such real property or improvement thereto, including but not limited to:

- (1) Leahi Hospital lands and improvements now held by the university of Hawaii under a sixty-five year general lease no. S-4220, dated January

- 29, 1969, from the State of Hawaii by the board of land and natural resources;
- (2) All rights now held or hereafter acquired by the university of Hawaii in the lands and improvements of the Leahi foundation through the complaint of eminent domain (Civil 36044), dated January 27, 1972; and
- (3) All moneys in the process of appropriation to the university of Hawaii to pay the Leahi foundation the principal and interest for the lands and improvements acquired by condemnation.

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 12. This Act shall take effect on July 1, 1976.

(Approved May 10, 1976.)

ACT 60

S.B. NO. 243

A Bill for an Act Relating to the Payment of Income Taxes.

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

SECTION 1. Section 235-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The tax imposed by this chapter applies to the entire income of a resident, computed without regard to source in the State.”

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*

SECTION 3. This Act shall take effect on July 1, 1976; provided that individuals who have taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 shall be taxed under chapter 235, Hawaii Revised Statutes, only on the basis of income received or derived from property owned, personal services, performed, trade or business carried on, and any and every other source in the State of Hawaii.

(Approved May 10, 1976.)

*Edited accordingly.

ACT 61

ACT 61

S.B. NO. 849

A Bill for an Act Relating to Public Officers and Employers.

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

SECTION 1. Section 76-35, Hawaii Revised Statutes, is amended to read:

"Sec. 76-35 Intragovernmental transfers. A transfer is the movement of an employee in the civil service from one position to another position which is: (1) in the same class; (2) in a different class assigned to the same pay range in the same salary structure; (3) in a different salary structure and in a class assigned to a pay range whose highest pay rate is the same as the highest pay rate of the pay range of the class which the employee is transferring from; or, (4) in a different salary structure and in a class assigned to a pay range whose highest pay rate is less than or exceeds the highest pay rate of the class which the employee is transferring from by no more than the dollar difference between the first and second step of the pay range of the class the employee is transferring from. A transfer both within a department and between two departments may be made without a reduction in pay and with the approval of the department head or heads and the director of personnel services as provided by rule. The term "pay range" as used herein shall refer to the pay levels of salary schedules applicable to employees covered by Chapter 77."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 10, 1976.)

ACT 62

S.B. NO. 1667

A Bill for an Act Relating to Increments, Service Anniversary Dates and Longevity Increases for Public Employees.

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

SECTION 1. Section 77-12, Hawaii Revised Statutes, is amended to read:

"Sec. 77-12 Increments, service anniversary dates, longevity increases. Upon certification of the appointing authority any employee in the civil service may, except as otherwise provided by section 76-41, upon his rendering a year's satisfactory service, be entitled to an increase in compensation from that received during such year to that provided for by the next higher step in the salary range for the class to which his position has been assigned. For the purpose of this section, it shall not be necessary that the year's service shall have been in the same position or class. The date on which the employee would, except for the

*Edited accordingly.

application of section 76-41 have been entitled to such step increase shall be known as his "service anniversary date."

Any employee who is paid under the salary schedule contained in section 77-13 and who has served satisfactorily for three years at the maximum step or in steps L-1, L-2, or L-3 of the salary range for the class to which his position is assigned may receive longevity step increases.

Any employee, who has served satisfactorily for five years at a step in a salary range higher than the maximum step of the salary range to which his appropriate class has been assigned, may receive longevity increases as herein provided under the same terms and conditions as if he were receiving compensation at the maximum step for his appropriate grade; provided, that until such time as the increased compensation would exceed the compensation received by the employee without reference to the longevity increase, he shall be entitled to no increase in compensation.

For the purposes of this section, the period of a leave of absence without pay to pursue a course of instruction or engage in research, thereby improving his ability and increasing his fitness for public employment may be deemed service by the employee and credited towards his increment or longevity increase upon showing to the satisfaction of the appointing authority that he has fulfilled the purpose of his leave.

Any other law to the contrary notwithstanding, this section shall apply to all employees in positions covered in the compensation plan as set forth in this chapter.

Any employee who is paid under the compensation plan provided for under section 77-5 or 77-13 shall not be entitled to his normal annual increment or longevity increases as the case may be, for a year's satisfactory service in any fiscal year that an increase in the appropriate salary or wage board schedule is effected and when such increment or longevity increase is deferred, no part of the fiscal year shall be counted as service creditable for any future increment or longevity pay increase; provided, however, any employee who is paid under section 77-13 and who would have been assigned under section 89-6(a) had he not been excluded from collective bargaining, shall be entitled to increments or longevity increases on the same terms as employees assigned to collective bargaining units under section 89-6(a)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 10, 1976.)

ACT 63

S.B. NO. 1949-76

A Bill for an Act Relating to Policy Planning.

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

*Edited accordingly.

ACT 64

SECTION 1. Chapter 225, Hawaii Revised Statutes, is amended as follows:

1. Section 225-3 is amended to read:

"Sec. 225-3 Policy Council. There is established a policy council. The governor shall appoint one of its members as its chairman. Members of the council shall all serve ex officio and shall include:

- (1) The planning director from each county;
- (2) The directors or chairmen from the departments of agriculture, budget and finance, planning and economic development, land and natural resources, health, social services and housing, transportation, office of environmental quality control, and land use commission, and the superintendent of education, and the executive director of Hawaii housing authority.

Expenses incurring by a member participating in council deliberations shall be borne by his respective public agency."

2. Section 225-23 is amended to read:

"Sec. 225-23 Public hearings. (a) Before the submission of the State plan to the legislature, the director shall hold public hearings with notice given provided in chapter 91 in each county in the State. There shall be not less than two public hearings in each county giving widest geographical coverage; provided that in the city and county of Honolulu there shall be not less than three public hearings with the widest geographical coverage.

(b) The director shall hold additional hearings and informational hearings subject to sub-section (a), not less than six months prior to finalization and submission of the state plan to the legislature, for the purposes of discussing any analyses, reports, or drafts then in existence as well as eliciting citizen comments on the progress and form of the development of the state plan."

3. Section 225-26 is amended to read:

"Sec. 225-26 Status report of state plan. Prior to January 1, 1976, the director shall submit to the legislature a detailed status report on the progress as well as a preliminary draft of the proposed state plan. From July 1, 1976 until the plan is submitted for legislative approval pursuant to section 225-21, the director shall submit a detailed status report on progress semi-annually.

SECTION 2. New statutory material is underscored. Material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon approval.

(Approved May 10, 1976.)

ACT 64

S.B. NO. 2092-76

A Bill for an Act Amending Section 205-35 of the Hawaii Revised Statutes, Relating to Shoreline Setbacks.

*Edited accordingly.

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

SECTION 1. Section 205-35 of the Hawaii Revised Statutes is hereby amended to read:

“Section 205-35 Functions of agency. (a) The agency shall administer the provisions of this part. It shall review the plans of all applicants who propose any structure, activity, or facility which otherwise would be prohibited by this part.

The agency may require that the plans be supplemented by accurately mapped data showing natural conditions and topography relating to all existing and proposed structures, buildings and facilities.

The agency may also require reasonable changes in the submitted plans in order to obtain optimum compliance practicable.

(b) After reviewing the plans, the agency shall transmit the plans with its recommendations to the county planning commission except in counties where the county planning commission is advisory only in which case to the county council or such body as the council shall by ordinance designate. Such governmental body shall grant a variance for such structure, activity, or facility if, after a hearing pursuant to chapter 91, it finds in writing, based on the record presented either: (1) that such structure, activity, or facility is in the public interest; or (2) that hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline area. Any variance granted may be subject to such conditions as will cause the structure, activity, or facility to result in a minimum interference with natural shoreline processes. Such governmental body shall render written approval or disapproval within forty-five days after the hearing on the applicant's plans, unless such period is extended by written agreement between the governmental body and the applicant.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 10, 1976.)

ACT 65

S.B. NO. 2107-76

A Bill for an Act Relating to Law Clerks for Justices of the Supreme Court.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personnel services performed for the State, except the following:

*Edited accordingly.

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and six employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in subparagraph (17);
- (10) Assistant and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in research projects approved by the governor, for which projects federal funds are available, provided the period of

- employment shall not exceed one year;
- (13) Election inspectors, election clerks and other election employees;
 - (14) Positions filled by inmates, kokua, patients, and students of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs under Titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, as amended;
 - (15) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
 - (16) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
 - (17) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department, and an administrative assistant to the superintendent of education;
 - (18) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (19) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 10, 1976.)

*Edited accordingly.

A Bill for an Act Relating to Industrial Loan Licenses.

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

SECTION 1. Section 408-8, Hawaii Revised Statutes, is amended to read:

"Section 408-8 Application for license; investigation fee. 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.

The applicant shall pay to the director of regulatory agencies at the time of filing of an application for license an investigation fee of \$75, which shall not be refundable. Licensees who apply for the relocation of their present offices shall pay to the director an investigation fee of \$50, which shall not be refundable.

Conditions for approval. Upon the filing of the application, if the bank examiner upon investigation finds:

- (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 the applicant to engage in this business will promote the convenience and advantage of the locality or community in which the business of the applicant is to be conducted;
- (3) That the applicant has available for the operation of this business at the specified location capital of at least \$100,000; and
- (4) That allowing the applicant to engage in this business will not substantially lessen competition or tend to create a monopoly or in any other manner be in restraint of trade.

(The foregoing facts being conditions precedent to the issuance of a license under this chapter) he shall write upon the face of the 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 it within thirty days to the director who shall file and preserve the application.

Review of disapproval. No application shall be disapproved except after the applicant has had a notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the bank examiner shall, within twenty 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 ten days after the receipt of the copy the applicant may appeal from the order of denial to a board consisting of the director of regulatory agencies, comptroller, and attorney general by filing with the comptroller 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 board shall file with the comptroller 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 the board shall forthwith be served upon the applicant by the bank examiner. The applicant may appeal from an adverse decision of the board to the circuit court of the first circuit in which the applicant proposes to establish an office, as provided in chapter 91.

SECTION 2. Section 408-11.1, Hawaii Revised Statutes, is amended to read as follows:

"Section 408-11.1 Transfer of licenses. (a) No license issued under this chapter shall be transferred or assigned without the prior written approval of the bank examiner.

(b) If the licensee is a corporation, any transfer of its voting stock shall be reported in writing to the bank examiner within fifteen days after the date of such transfer. Failure or refusal to notify the bank examiner of such transfer shall be cause for the suspension or revocation of the license.

The bank examiner may, upon determination that the transferee or any other person has gained direct or indirect control of the corporate licensee by such transfer and upon determination that such transferee or other person is unfit or an improper person to hold a license pursuant to section 408-8, limit, modify, suspend or revoke the corporate license."

SECTION 3. The provisions of this Act shall be applicable to all applications pending before the bank examiner on the effective date of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 10, 1976.)

ACT 67

H.B. NO. 24

A Bill for an Act Relating to Student Financial Aid.

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

SECTION 1. Section 304-17, Hawaii Revised Statutes, is amended to read:

"Sec. 304-17 Number and allocation of financial aids. "Financial aid" as used in this section, means the tuition waivers authorized in section 304-4 and the scholarships authorized in section 304-15. A financial aid unit shall consist of a

*Edited accordingly.

ACT 67

tuition waiver or scholarship awarded for the regular academic year or a semester thereof, and providing full coverage of tuition and other fees as authorized by the board. The board shall have the power to divide a Hawaii merit scholarship among two or more part-time students or among students whose financial need will not substantiate a full scholarship. The total units of state financial aid in any given academic year shall not exceed the following:

- (1) In 1971 six percent of the total full-time undergraduate enrollment in the previous September;
- (2) In 1972 seven percent of the total full-time undergraduate enrollment in the previous September;
- (3) In 1973 eight percent of the total full-time undergraduate enrollment in the previous September;
- (4) In 1974 eleven per cent of the total full-time undergraduate enrollment in the previous September;
- (5) In 1975 and in each and every year thereafter thirteen percent of the total full-time undergraduate enrollment in the previous September;
- (6) Except that the projected enrollment for each entering class of a new campus shall be calculated as part of its full-time undergraduate enrollment until such campus shall have graduated its first class.

The allocation of the total number of units of financial aid shall be adjusted annually, based upon the ratio between full-time undergraduate students enrolled in the baccalaureate system and in the community college system.

Scholarships awarded to students in college transfer programs in the community colleges shall be continued upon their transfer into baccalaureate programs provided they continue to qualify, with the scholarship then to count against the quota for the baccalaureate degree granting campus. A scholarship awarded to a student who concurrently registers and enrolls at two or more campuses of the University of Hawaii during the same semester shall be counted against the quota for the campus at which the student is considered by the University to be seeking a certificate or degree. Each Hawaii State scholarship shall be granted for a period of one academic year, and may be renewed each year for all recipients who maintain a satisfactory standard of scholarship and deportment, and who continue to demonstrate financial need. The board may reaward to a new recipient the unused portion of a Hawaii state scholarship if the original awardee has left school, or for some reason ceases to remain qualified to receive financial aid. Each Hawaii merit scholarship shall be granted for the period of one semester and may be renewed. No student shall receive state scholarship grants for a period longer than four academic years while pursuing a professional or advance degree, bachelor's degree, associate degree or a certificate as the case may be."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act, upon its approval, shall take effect on July 1, 1976.
(Approved May 10, 1976.)

*Edited accordingly.

A Bill for an Act Relating to County Hospital Management Advisory Committees.

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

SECTION 1. Section 27-22 of the Hawaii Revised Statutes is amended to read:

"Sec. 27-22 County hospital management advisory committees. (a) There shall be for each county a hospital management advisory committee to consist of nine members to be appointed by the governor. The members shall serve for a term of four years; provided that upon the initial appointment of the members, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years and three for a term of four years.

The committee shall select its own chairman and vice chairman and may adopt such rules and regulations as it may consider necessary for the conduct of its business.

The members of the committee shall serve without compensation, but shall be reimbursed for traveling expenses incurred in the performance of their duties. The department of health shall provide for the necessary expenses of the committees; provided that no expenses may be incurred without prior authorization by the director of health.

(b) Powers and duties of management advisory committee. Each committee shall sit in an advisory capacity to the director of health on matters concerning the planning, construction, improvement, maintenance, and operation of public hospitals and other public health and medical facilities within their respective jurisdictions; but nothing herein shall be construed as precluding or preventing the committees from coordinating their efforts and activities with the hospital administrators within their counties.

SECTION 2. Section 27-21.2 of the Hawaii Revised Statutes is amended to read:

"Sec. 27-21.2 Transfer of personnel. (a) All employees of the several counties, the major portion of whose duties is in a functional area covered by section 27-21.1 shall be transferred to the department to which the function has been assigned.

No employee transferred by this part shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges as a consequence of this part.

The counties shall not be required to transfer funds to cover the vacation credits earned or accumulated by employees transferred under this part.

(b) The appointment of the hospital administrator shall be made pursuant to chapters 76 and 77, on or after June 12, 1974. Hospital administrators appointed prior to June 12, 1974 shall receive permanent civil service status as provided in chapters 76 and 77 without the necessity of examination and shall be accorded all rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded a hospital administrator with

ACT 69

civil service status. Such hospital administrators shall not suffer a reduction in their pay rate."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 10, 1976.)

ACT 69

H.B. NO. 2236-76

A Bill for an Act Relating to Real Property Taxes.

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

SECTION 1. Section 246-49, Hawaii Revised Statutes, is amended to read:

"Sec. 246-49 Penalty for delinquency. There shall be added to the amount of all delinquent taxes, a penalty of up to ten per cent of such delinquent taxes as determined by the director of taxation, which penalty shall be and become a part of the tax and be collected as a part thereof.

All delinquent taxes and penalties shall bear interest at the rate of two-thirds of one per cent for each month or fraction thereof until paid, beginning with the first calendar month following the calendar month designated for payment in section 246-48. The interest shall be and become a part of the tax and be collected as a part hereof.

No taxpayer shall be exempt from delinquent penalties by reason of having made an appeal on his assessment, but the tax paid, covered by an appeal duly taken, shall be held in a special deposit as provided in section 232-24."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 10, 1976.)

ACT 70

H.B. NO. 2377-76

A Bill for an Act Relating to Fishing Vessel Loan Programs.

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

SECTION 1. Part II of chapter 189, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

**"PART II. LARGE FISHING VESSEL PURCHASE,
CONSTRUCTION, RENOVATION, MAINTENANCE,
AND REPAIR LOAN PROGRAM"**

Sec. 189-21 Definitions. As used in this part:

- (1) "Director" means the director of planning and economic development.
- (2) "National Marine Fisheries Service" means the Financial Assistance Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce.
- (3) "SBA" means the Federal Small Business Administration.
- (4) "Large fishing vessel" means any vessel five net tons and over designed to be used in the Hawaii commercial fisheries for catching fish, processing, or transporting fish loaded on the high seas that derives at least fifty-one per cent of that vessel's gross annual income from commercial (as opposed to recreational) operations, or any vessel outfitted for such activity.
- (5) "Department" means the department of planning and economic development.

Sec. 189-22 Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan program. There is hereby created the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan program which shall be administered by the director in accordance with the spirit and intent of this part.

Sec. 189-23 Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund. There is established the Hawaii large fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund into which shall be deposited all moneys received as repayment of loans and interest payments as provided for in this part.

Sec. 189-24 Functions, powers, and duties of director. In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the director shall:

- (1) Prescribe the qualifications for eligibility of applicants for loans and, in so doing, be guided by requirements as set forth in Public Law 88-498.
- (2) Establish preferences and priorities in determining eligibility for loans.
- (3) Establish the conditions, consistent with the purposes of this part, for the granting of the loan.
- (4) Provide for inspection, at reasonable hours, of the vessel, books, and records of an individual or enterprise who has applied for or has been granted a loan and to require the submission of progress and final reports.
- (5) Adopt rules and regulations under chapter 91 to carry out this part.

Sec. 189-25 Loans, terms, and restrictions. The department may make loans to individuals or businesses for the financing of the purchase, construction, renovation, maintenance, or repair of vessels. The loans may be made in conjunction with loans made by other financial institutions including the

Financial Assistance Division of the National Marine Fisheries Service and the SBA. Where the loans made by the department are secured, such security may be subordinated to the loans made by other financial institutions, when subordination is required in order to obtain loans from the institutions. The necessity for and the extent of security required in any loan shall be determined by the director.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loan of state funds shall exceed eighty per cent of the cost of purchase, construction, renovation, maintenance, or repair of a vessel.
- (2) No loan for renovation, maintenance, or repair of a fishing vessel shall exceed \$50,000 nor for a term exceeding ten years.
- (3) No loan for purchase or construction of a fishing vessel shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at the rate of seven and one-half per cent a year.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of two years.
- (6) In the event the State repossesses any vessel financed under this program, the repossessed vessel shall not be resold to the individual to whom the loan has been made, or to anyone with a financial interest in the vessel.

Sec. 189-26 Reports. The department shall make an annual report for the period ending December 31 to the governor, the president of the senate, and the speaker of the house of representatives, on the progress made under this part. The report shall be submitted not later than February 1 immediately following the calendar year period covered by the report."

SECTION 2. Part IV of chapter 189, Hawaii Revised Statutes, is amended to read:

"PART IV. HAWAII SMALL FISHING VESSEL LOAN PROGRAM

Sec. 189-41 Findings and purpose. The purpose of this part is to insure the continued orderly development of Hawaii's small commercial fishing vessel fleet by providing financial assistance for the maintenance and repair of small commercial fishing vessels in order to increase productivity in traditional state fishing grounds and to foster development of new fishing grounds by Hawaii's small commercial fishing vessels. The legislature finds that: (1) the several financial assistance programs available to Hawaii's commercial fishermen are primarily for new vessel construction with national agency program emphasis on large fishing vessels; (2) that the large majority of Hawaii's commercial fishing vessels are small vessels (under 5 net tons, i.e., under 31 feet long) whose owners often do not have the financial resources of the larger vessels; (3) there is no financial program specializing in providing financial assistance for the maintenance and repair of smaller commercial fishing vessels; (4) that the nature of commercial fishing is noted for occasional poor years when reduced landings

adversely affect the economic resources of commercial fishermen, especially those with the smaller vessels; (5) that the recently released report "Hawaii and the Sea—1974" calls for further development of measures to strengthen Hawaii's commercial fishing fleet, for example, by expanding the present Hawaii Fisheries New Vessel Construction Loan Program (Act 193, Session Laws of Hawaii 1965, as amended by Act 28, Session Laws of Hawaii 1968); (6) that the Hawaii Fisheries New Vessel Construction Loan Program does not include maintenance and repair of small commercial fishing vessels; (7) that the creation of a maintenance and repair loan program would help fulfill the intent of "Hawaii and the Sea—1974"; (8) that some usually efficient commercial fishermen, due to the above reasons, are unable to upgrade their vessels in order to take advantage of new fishing gear and technology, and; (9) that the State of Hawaii should make every effort to strengthen its small commercial fishing, vessel fleet.

Sec. 189-42 Definitions. As used in this part:

- (1) "Director" means the director of planning and economic development.
- (2) "Small fishing vessel" means any vessel under five net tons designed to be used in catching fish, processing, or transporting fish loaded on the high seas that derives at least fifty-one percent of that vessel's gross annual income from commercial (as opposed to recreational) operations, or any vessel outfitted for such activity.
- (3) "Department" means the department of planning and economic development.
- (4) "SBA" means the Federal Small Business Administration.
- (5) "National Marine Fisheries Service" means Financial Assistance Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, United States Department of Commerce.

Sec. 189-43 Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan program; revolving fund. (a) There is created the Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan program, which shall be administered by the director in accordance with the spirit and intent of this part.

(b) There is established the Hawaii small fishing vessel purchase, construction, renovation, maintenance, and repair loan revolving fund into which shall be paid all moneys received as repayment of loans and interest payments as provided in this part.

Sec. 189-44 Functions, powers, and duties of the director. In performance of, and with respect to, the functions, powers, and duties vested in him by this part, the director shall:

- (1) Prescribe the qualifications for eligibility of applicants for loans.
- (2) Establish preferences and priorities in determining eligibility for loans.
- (3) Establish the conditions, consistent with the purposes of this part, for the granting of the loan.
- (4) Provide for inspection, at reasonable hours, of the vessel, records and books of an individual or enterprise who has applied for or has been granted a loan and to require the submission of periodic reports.

ACT 71

(5) Adopt rules and regulations under chapter 91 to carry out this part.

Sec. 189-45 Loans, terms, and restrictions. The department may make loans to individuals or businesses for the financing of expenses incurred in the purchase, construction, renovation, maintenance, and repair of small fishing vessels. The loans may be made in conjunction with loans made by other financial institutions including the Small Business Administration or loans guaranteed by the National Marine Fisheries Service. Where the loans made by the department are secured, such security may be subordinated to the loans made by other financial institutions, when such subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loan shall exceed \$50,000.
- (2) No loan shall be made for a term exceeding ten years.
- (3) Each loan shall bear simple interest at the rate of seven and one-half percent a year.
- (4) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of two years.

Sec. 189-46 Reports. The department shall make a report for the period ending December 31 of each year to the governor, the president of the senate, and the speaker of the house of representatives, on the progress made under this part. The report shall be submitted not later than February 1 immediately following the period covered by the report."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 10, 1976.)

ACT 71

H.B. NO. 2593-76

A Bill for an Act Relating to the Foreclosure of Real Property Tax Liens.

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

SECTION 1. Section 246-56, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 246-56 Tax liens; foreclosure without suit, notice. All real property on which a lien for taxes exists may be sold by way of foreclosure without suit by the tax collector, and in case any lien, or any part thereof, has existed thereon for three years, shall be sold by the tax collector at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs, and

*Edited accordingly.

expenses due or incurred on account of the tax, lien, and sale, the surplus, if any, to be rendered to the person thereto entitled. The sale shall be held at any public place proper for sales on execution, after notice published at least once a week for at least four successive weeks immediately prior thereto in any newspaper with a general circulation of at least 60,000 published in the State and any newspaper of general circulation published and distributed in the taxation district the property to be sold is situated, if there be a newspaper published in the taxation district. If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the tax collector shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the tax collector shall send a notice to the owner at his last known address as shown on the records of the department of taxation. The notice shall be deposited in the mail at least 45 days prior to the date set for the sale. The notice shall also be posted for a like period in at least three conspicuous public places within such taxation district, and if the land is improved one of the three postings shall be on the land."

SECTION 2. Section 246-57, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 246-57 Same; registered land. If the land has been registered in the land court, the tax collector shall also send by registered mail a notice of the proposed sale to any person holding a mortgage or other lien registered in the office of the assistant registrar of the land court. The notice shall be sent to any such person at his last address as shown by the records in the office of the registrar, and shall be deposited in the mail at least 45 days prior to the date set for the sale."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 10, 1976.)

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, is amended to read:

"Sec. 213 Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan

*Edited accordingly.

fund; Anahola-Kekaha loan fund; Hawaiian loan guarantee fund; Papakolea home-replacement loan fund; Keaukaha-Waiakea home-replacement loan fund; Keaukaha-Waiakea home-construction fund; the Statewide replacement loan fund; and the Hawaiian home general home loan fund. (a) There are hereby established in the treasury of the State eleven revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, the Anahola-Kekaha loan fund, the Papakolea home-replacement loan fund, the Keaukaha-Waiakea home-replacement loan fund, the Keaukaha-Waiakea home construction fund, statewide replacement loan fund, and the Hawaiian home general home loan fund, and three special funds to be known as the Hawaiian home-development fund, the Hawaiian home-administration account, and the Hawaiian loan guarantee fund.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in such amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in section 215(2), or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in the fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in subsections (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called "Additional Receipts", shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts-Development Fund Portion", is to be transferred to the Hawaiian home-development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called "Additional Receipts-Loan Fund Portion," shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$35,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$35,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);
- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, other governmental agencies, or private lending institutions may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of section 207, 208, 209, 210, 215, 216 and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home-loan fund, Hawaiian home-operating fund or Hawaiian home-development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies or private lending institutions shall be approved by the department and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department;
- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, other governmental agencies, or private lending institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative

amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands;
- (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from governmental agencies or private lending institutions and if necessary in connection therewith, to pledge, secure, or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;
- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities covering loans made by other governmental agencies or by private lending institutions to native Hawaiians or guarantee the repayment of or otherwise underwrite the loans and accept the assignment of any notes and mortgages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts-Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans made by other governmental agencies or by private lending institutions to native Hawaiians. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating, or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts-Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) Hawaiian home-development fund. Twenty-five per cent of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in such development fund shall be available, with the prior written approval of the

governor, for off-site improvements and development; for improvements, additions and repairs to all assets as structures and buildings owned by the department excluding, however, such structures or improvements that the department shall be required to acquire under section 209 of this Act; for engineering and architectural planning to maintain and develop properties; for purchase of equipment of every kind and nature as the department shall deem necessary or proper for its use; for nonrevenue producing improvements to fulfill the intent of the Act not permitted in the various loan funds, the administration account or the operating fund.

With respect to the Additional Receipts-Development Fund Portion, fifteen per cent thereof shall be used, with the prior written approval of the governor, for off-site improvements and development; for improvements, additions and repairs to all assets as structures and buildings owned by the department excluding, however, such structures or improvements that the department shall be required to acquire under section 209 of this Act; for engineering and architectural planning to maintain and develop properties; for purchase of equipment of every kind and nature as the department shall deem necessary or proper for its use; for nonrevenue producing improvements to fulfill the intent of the Act not permitted in the various loan funds, the administration account or the operating fund, and the remaining eighty-five per cent shall be segregated into a special account which may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education after consultation with the University of Hawaii and the department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.

Only so much of the Additional Receipts-Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) Hawaiian home-operating fund. All moneys received by the department from any other source, except money received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in such fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from such funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in the fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, the fund, with the approval of the governor, may be supplemented by

transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) Match moneys. The department is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, state or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(f) Hawaiian home-administration account. The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in such account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

- (1) The department shall, at such time as the governor may prescribe, but not later than November 15, preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next ensuing (fiscal period) in the manner and form and as required by state law of state departments and establishments.
 - (2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
 - (3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing (fiscal period) the amount thereof shall be available to the department for the (fiscal period) and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the (fiscal period) or so made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in the administration account shall equal the amount approved by the legislature or so made available.
 - (4) The money in the administration account shall be expended by the department in accordance with state laws, rules, and regulations and practices.
- (g) Hawaiian home-farm loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the "farm loan fund". The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of

this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding licenses issued under section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by the lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(i) Hawaiian home-repair loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$10,000 to lessees for repairs to their existing homes and for additions to such homes. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are residents of Anahola and Kekaha on the island of Kauai to construct homes upon their residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund to support, if necessary, its guarantee of repayment of loans made by governmental agencies or by private lending institutions to those holding leases or licenses issued under section 207 of this Act. The loan guarantees shall be subject to the restrictions imposed by sections 208, 214, and 215 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any State law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.

(l) Papakolea home-replacement loan fund. The department shall create a fund of \$200,000 out of moneys heretofore appropriated to it by the legislature to be known as the Papakolea home-replacement loan fund. The moneys in this fund shall be used to make loans to lessees who are residents of Papakolea on the island of Oahu to construct replacement homes upon their residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(m) Keaukaha-Waiakea home-replacement loan fund. The department is authorized to create a fund to be known as the Keaukaha-Waiakea home-replacement loan fund. The moneys in this fund shall be used to make loans to lessees who are residents of Keaukaha-Waiakea on the island of Hawaii to construct replacement homes upon their residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(n) Keaukaha-Waiakea home-construction fund. The department is authorized to create a fund to be known as the Keaukaha-Waiakea home-construction fund. The moneys in this fund shall be used to make loans to lessees to construct homes upon their vacant residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(o) Statewide replacement loan fund. The department shall create a fund of \$5,250,000 out of moneys heretofore appropriated to it by the legislature to be known as the Statewide replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(p) Hawaiian home general home loan fund. The department shall create a fund to be known as the Hawaiian home general home loan fund. Funds appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund shall be deposited to this fund. The moneys in this fund shall be used to make loans to lessees for the purposes set forth by the legislature in the enactment appropriating said funds. Such loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act."

SECTION 2. Section 215, Hawaiian Homes Commission Act, 1920, is amended to read:

"Sec. 215 Conditions of loans. Except as otherwise provided in section 213(i), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural or mercantile cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract loan:

- (1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$35,000, for the development and operation of a farm or a ranch shall not exceed \$35,000, except that when loans are made to an agricultural cooperative association for the purposes stated in paragraph (4) of section 214, the loan limit shall be determined by the department on the basis of the proposed operations and the available security of the association, and for the development and operation of a mercantile establishment shall not exceed the loan limit determined by the department on the basis of the proposed operations and the available security of the lessee or of the organization formed and controlled by lessees; provided, that where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall make the payment provided for by section 209(1), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided, further, that in case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to paragraph (3) of this section.

- (2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent a year for loans made directly from the Hawaiian home-loan fund, or at the rate of two and one-half per cent or higher as established by law for other loans, payable periodically or upon demand by the department, as the department may determine. The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.
- (3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1) of this section. In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1) of this section. The department may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon said loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems advisable and for the best interests of the lessees, write off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for in section 209(1). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to paragraph (1) of this section.
- (4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.
- (5) The borrower or the successor to his interest shall comply with such other conditions, not in conflict with any provisions of this title, as the department may stipulate in the contract of loan.
- (6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with the provisions of section 209 of this title in respect to the lease of any tract.

ACT 73

(7) Whenever the department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the department of all moneys due or to become due to such borrower by reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the department shall be sufficient ground for cancellation of the borrower's lease or interest therein."

SECTION 3. These authorizations in the increase of monetary amounts or the addition of new funds shall not be construed as irrevocable amendments to the Hawaiian Homes Commission Act, 1920, and any repeal or amendment of these authorizations or any of them, and recall of moneys loaned herein, shall not be construed as a present or then reduction or impairment of the Hawaiian home-loan fund, the Hawaiian home-development fund and the Hawaiian home-operating fund of the Act.

SECTION 4. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 10, 1976.)

ACT 73

H.B. NO. 3112-76

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Section 346-28, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 346-29, Hawaii Revised Statutes, is amended to read:

"Sec. 346-29 Applications for public assistance; manner, form, conditions. Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant's behalf, in the manner, place, and form prescribed by the department.

*Edited accordingly.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an institution mentioned in this section may apply for assistance to begin after his discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total in liquid assets equal to maximum possible money payments by family size multiplied by a factor of 1.5 and rounded to the nearest \$5 in determining the needs of persons for money payments; provided that this provision shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the eligibility requirements under the federal supplemental security income program.
- (4) Shall disregard a total of at least \$1,500 in liquid assets in determining the needs of a single person for medical assistance only.
- (5) Shall disregard a total of at least \$2,250 in liquid assets in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.

The director shall adopt rules pursuant to chapter 91 defining "liquid assets"; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as liquid assets."

SECTION 3. Section 346-53, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) If a child is eligible for public assistance under section 346-55, and if the child lives in a home or a place of residence maintained as a home by a relative specified under section 346-55, and if such a relative is a person essential to the child's well being, then the department shall pay in behalf of each child the basic needs allowance and shelter allowance as prescribed in this chapter. The department shall make such payment regardless of whether such relative does or does not receive public assistance."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

ACT 74

brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 10, 1976.)

ACT 74

H.B. NO. 3239-76

A Bill for an Act Relating to Electric Guns.

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

SECTION 1. Section 134-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

“Electric gun” means any portable device which is electrically operated to project a missile or electromotive force. It does not mean to include any electric livestock prod used in animal husbandry.

“Chief of police” means the chief of police of the counties of Hawaii, Maui, Kauai and the City and County of Honolulu.”

SECTION 2. Chapter 134, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“Sec. 134- Restriction on possession, sale, gift or delivery. It shall be unlawful for any person, including a licensed manufacturer, licensed importer or licensed dealer, to possess, offer for sale, hold for sale, sell, give, loan, or deliver to another any electric gun.

Any person violating this section shall be guilty of a misdemeanor.

Sec. 134- Confiscation and disposal. Any electric gun in violation of this section shall be confiscated and disposed of by the chief of police.”

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 10, 1976.)

ACT 75

S.B. NO. 1512

A Bill for an Act Relating to Marketing Order Revolving Fund.

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

SECTION 1. Section 163-31, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 163-31 Marketing order revolving fund. There is established a revolving fund for use by the department of agriculture in providing inspection services for state and federal marketing order programs. Moneys in the fund may

*Edited accordingly.

be expended for materials, salaries, equipment, training and other costs related to providing inspection services. Moneys derived from the inspection services provided shall be deposited in the fund. Marketing order inspectors hired under this chapter shall be exempt from chapters 76 and 77 of the Hawaii Revised Statutes."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 12, 1976.)

ACT 76

S.B. NO. 1561

A Bill for an Act Relating to Licensure Qualifications of Attorneys.

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

SECTION 1. Section 605-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 605-1 Attorneys, qualifications. (a) The supreme court may examine, admit, and reinstate as practitioners in the courts of the State, such persons as it may find qualified for that purpose, who have taken the prescribed oath of office. The supreme court shall have the sole power to revoke or suspend the license of any such practitioner.

(b) In order to be licensed by the supreme court, a person shall be of good moral character, and shall satisfy such residence and other requirements as the supreme court may prescribe.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 77

S.B. NO. 1784-76

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

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

SECTION 1. Section 521-76, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 521- Investigation and resolution of complaints by the office of consumer protection. The office of consumer protection may receive, investigate and attempt to resolve any dispute arising under this chapter."

*Edited accordingly.

ACT 78

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 78

S.B. NO. 1820-76

A Bill for an Act Relating to the Prepaid Health Care Act.

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

SECTION 1. Section 393-3, Hawaii Revised Statutes, is amended by amending the definition of "Wages" to read:

"(9) "Wages" means all remuneration for services from whatever source, including commissions, bonuses, and tips and gratuities paid directly to any individual by a customer of his employer, and the cash value of all remuneration in any medium other than cash.

The director may issue regulations for the reasonable determination of the cash value of remuneration in any medium other than cash.

If the employee does not account to his employer for the tips and gratuities received and is engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips, the combined amount received by him from his employer and tips shall be deemed to be at least equal to the wage required by chapter 387 or a greater sum as determined by regulation of the director.

"Wages" does not include the amount of any payment specified in section 383-11 or 392-22 or chapter 386."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 12, 1976.)

ACT 79

S.B. NO. 1832-76

A Bill for an Act Relating to Civil Service and Exemptions.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

"Sec. 76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the state service not existing or hereafter established and embraces all personnel services performed for the State, except the following:

*Edited accordingly.

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and six employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; one law clerk for each justice of the supreme court and each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in subparagraph (17);
- (10) Assistant and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in research projects approved by the governor, for which projects federal funds are available, provided the period of employment shall not exceed one year;

- (13) Election inspectors, election clerks and other election employees;
- (14) Positions filled by inmates, kokua, and patients of State institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (15) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (16) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (17) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department, and an administrative assistant to the superintendent of education;
- (18) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (19) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 12, 1976.)

*Edited accordingly.

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

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

SECTION 1. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of "accidental harm" and "motor vehicle accident" to read:

- "(1) "Accidental harm" means bodily injury, death, sickness, or disease caused by a motor vehicle accident to a person.
- (9) "Motor vehicle accident" means an accident arising out of the operation, maintenance, or use of a motor vehicle, including an object drawn or propelled by a motor vehicle."

SECTION 2. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of "insurer" to read:

- "(6) "Insurer" means every person licensed to engage in the business of making contracts of motor vehicle insurance and includes reciprocal or interinsurance exchanges."

SECTION 3. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of "No-fault benefits" to read:

- "(10) "No-fault benefits" with respect to any accidental harm shall be subject to an aggregate limit of \$15,000 per person or his survivor and means:
 - (A) All appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, x-ray and may include any non-medical remedial care and treatment rendered in accordance with the teachings, faith or belief of any group which depends for healing upon spiritual means through prayer;
 - (B) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
 - (C) Monthly earnings loss measured by an amount equal to the lesser of:
 - (i) \$800 per month, or
 - (ii) The monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity, or
 - (iii) A monthly amount equal to the amount, if any, by which the lesser of (i) or (ii) exceeds any lower monthly earnings of the person sustaining injury at the time he resumes gainful activity.
 - (D) All appropriate and reasonable expenses necessarily incurred as a result of such accidental harm, including, but not limited to, (i) expenses incurred in obtaining services in substitution of those

that the injured or deceased person would have performed for the benefit of himself or his family up to \$800 per month, (ii) funeral expenses not to exceed \$1,500, and (iii) attorney's fees and costs to the extent provided in section 294-30(a); provided that the term, when applied to persons described in section 294-22(b)(2)(A), shall not include benefits under subparagraph (A), (B), and (C)."

SECTION 4. Section 294-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

"(d) The no-fault insurance applicable on a primary basis to accidental harm to which this chapter applies is the insurance on the vehicle occupied by the injured person at the time of the accident, or, if the injured person is a pedestrian, the insurance on the vehicle which caused accidental harm to such pedestrian.

If there is no such insurance on such vehicle, any other no-fault insurance applicable to the injured person shall apply.

No person shall recover no-fault benefits from more than one insurer for accidental harm as a result of the same accident."

SECTION 5. Section 294-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) A no-fault policy, including required optional additional insurance meeting provisions of section 294-11, once issued may not be canceled or refused renewal by an insurer except for:

- (1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or
- (2) Failure to pay the premium for such policy after reasonable demand therefor.

In any case of cancellation or refusal to renew, the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew, written notice shall be given to the insured, not less than thirty days prior to the effective date of such cancellation or refusal to renew. Within five calendar days after actual cancellation or processing a cancellation of no-fault insurance, whether at the option of the insurer or the insured, the insurer shall give written notice to the director of finance and the chief of police of the appropriate county of registration. Such cancellation or refusal to renew shall not be deemed valid unless supported by a certificate of mailing properly validated by the United States Post Office."

SECTION 6. Section 294-13, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) For the period of three years from September 1, 1975, and terminating on August 31, 1978, the commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section

294-23. This three-year period shall be a period of open rating. Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies' rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

Notwithstanding this prohibition, the commissioner shall, in his discretion, intervene at any time during this three-year period, to adjust rates, for the no-fault, mandatory, or operational-additional coverages, being assessed by any or all insurers, upon a finding that all or any rates are excessively high or unconscionably below the actual costs of provision of the coverage being assured.

On June 1, 1978, the applicable transition provisions of this chapter shall be effective as to rate making and the commissioner shall perform all acts required by this chapter for the setting and regulation of uniform rates conforming to this chapter to be effective on and after September 1, 1978.

In the establishment of their individual rate schedules, each insurer shall conform fully to paragraphs (b) (1), (2), and (4), during the open rating period."

SECTION 7. Section 294-21, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) The board shall elect its chairman and vice-chairman annually. The first meeting of the board shall be convened by the commissioner within sixty days of the effective date of this chapter. Thereafter, the board shall meet at its discretion, but not less frequently than quarterly."

SECTION 8. Section 294-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) The plan shall provide all no-fault benefits and services, and tort liability coverage, to the limits and coverages specified in part I for all classes of persons, motor vehicles, and motor vehicle uses specified in this section upon the payment of premiums as provided in section 294-24, as follows:

- (1) The plan shall provide no-fault benefits and policies for each of the following classes, and each class shall be able to secure a no-fault and tort liability policy through the plan:
 - (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner shall, by regulation, define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of his examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk automobile driver.
 - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
 - (i) Heedless and careless driving,

- (ii) Driving while license suspended or revoked,
 - (iii) Leaving the scene of an accident,
 - (iv) Manslaughter, if resulting from the operation of a motor vehicle,
 - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marihuana, as provided in section 291-7.
- (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuitously.
 - (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in (C) or the exclusive use of a vehicle for domestic-household-familial purposes;
 - (E) All motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under chapter 286.
- (2) The plan shall provide no-fault benefits and policies for all classes of persons, motor vehicles and motor vehicle uses, at the premiums specified under section 294-24, at the options of the owners, for the following classes, which the commissioner shall, by regulation, further define and regulate:
- (A) All licensed drivers receiving public assistance benefits consisting of medical services or direct cash payments through the department of social services and housing, or benefits from the Supplemental Security Income Program under the Social Security Administration; provided, however, said licensed drivers are the registered owners of motor vehicles to be insured under this chapter.
 - (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver-owner (A) or (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been cancelled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible, under regulations to be adopted by the commissioner, under subparagraph (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

- (3) Under the joint underwriting plan, all basic no-fault coverages, including the basic no-fault policy, the mandatory \$25,000 public liability and the \$10,000 property damage policies shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, optional additional coverages shall be offered by every insurer in conformance with section 294-11, for each class except that defined in paragraph (2)(A), as the commissioner shall, by regulation, provide."

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.*

SECTION 10. This Act shall take effect upon its approval.

(Approved May 12, 1976.)

ACT 81

S.B. NO. 2225-76

A Bill for an Act Relating to Prepaid Health Care.

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

SECTION 1. Section 393-21, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 393-21 Individual waivers; additional withholding for dependents.

(a) An employee may waive individually all of the required health care benefits pursuant to this chapter by:

(1) Requesting the waiver by a writing submitted to the employer; and
 (2) Receiving approval of the waiver from the director upon the director determining that the employee has other coverage under a prepaid health care plan which provides benefits that meet the standards prescribed in section 393-7.

(b) The employer who receives from an employee a written request for a waiver under this section shall transmit to the director a copy of the waiver, on a form prescribed by the director, and a copy of the prepaid health care plan on the basis of which the waiver is requested.

(c) A waiver under this section is binding for one year and is renewable for subsequent one-year periods.

(d) An employer who, directly or indirectly, coerces or attempts to coerce an employee in making a waiver under this section shall be subject to the penalty provided under subsection 393-33(b).

(e) An employee may not agree to pay a greater share of the premium for such benefits than is required by this chapter.

(f) Subject to section 393-7(b), an employee may consent to pay a greater share of his wages and to a withholding of such share by the employer for the purpose of providing prepaid health care benefits of his dependents under the plan providing such benefits for himself."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

*Edited accordingly.

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. Section 601-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-3 Administrative director. The chief justice with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, 1975, he shall receive a salary of not more than \$36,800 a year. Effective January 1, 1976, he shall receive a salary of not more than \$40,000 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvements;
- (2) Examine the state of the dockets of the courts, secure information as to their needs for assistance, if any, prepare statistical data, and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report, and any other reports requested by the legislature; and
- (7) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint a deputy administrative director of the courts subject to chapter 76 but not subject to chapter 77 and such assistants as may be necessary. Such assistants shall be appointed subject to chapters 76 and 77. The salary of the deputy administrative director shall be ninety-five per cent of the administrative director's salary. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and the expenditure of public funds for their maintenance and operation."

SECTION 2. Section 601-31, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-31 Office of sheriff created. There shall be within the judiciary a

division to be known as the office of sheriff, consisting of the sheriff, a first deputy sheriff, and a second deputy sheriff, and such additional deputies as the exigencies of the public service may require. They shall be subject to the supervision and control of the chief justice."

SECTION 3. Section 601-36, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 601-36 Salaries, fees. The salary of the sheriff shall be set by the chief justice. Effective July 1, 1975, the sheriff's salary shall be not more than \$16,000 a year. Effective January 1, 1976, the sheriff's salary shall be not more than \$17,500 a year. Effective July 1, 1975, the salary of the first deputy sheriff and second deputy sheriff shall be set by the chief justice and shall not be more than \$13,800 a year. Effective January 1, 1976, the salary of the first deputy sheriff and second deputy sheriff shall be set by the chief justice and shall not be more than \$15,000 a year.

The sheriff's deputies, other than the first deputy and second deputy, shall receive in full payment of their services only such fees as are prescribed by law; provided that the legally prescribed fees for such service of summons, subpoena, attachment, execution, or other civil process of court as provided by sections 607-4 and 607-8, shall belong to the sheriff, deputy sheriff, or other officer making such services."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 12, 1976.)

A Bill for an Act Relating to Investigators of the Department of Social Services and Housing.

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

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 346- Investigators; authority and access to records. The director shall appoint and commission one or more investigators as the exigencies of the public service may require. Persons appointed and commissioned under this section shall have and may exercise all the powers and authority of a police officer or of a deputy sheriff, provided that the persons so appointed and commissioned shall not carry any firearms. Information necessary to locate absent parents, to establish paternity, and to obtain and enforce court orders of support, and contained within the records of any agency, board, commission,

*Edited accordingly.

ACT 84

authority, or committee of the State or its political subdivisions shall be made available to any commissioned investigator of the department of social services and housing, notwithstanding any provision for confidentiality."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 12, 1976.)

ACT 84

S.B. NO. 2519-76

A Bill for an Act Relating to Safe Drinking Water.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

"CHAPTER SAFE DRINKING WATER"

Sec. -1 Definitions. As used in this chapter:

- (1) "Department" means the department of health.
- (2) "Director" means the director of the department of health or his authorized agent.
- (3) "Public water system" means a system which provides piped water for human consumption if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes:
 - (A) Any collection, treatment, storage, and distribution facilities controlled by the system and used primarily in connection with the system; and
 - (B) Any collection or pretreatment storage facilities not under the control of, but which are used primarily in connection with the system.
- (4) "Person" means an individual, corporation, company, association, partnership, county, city and county, or federal agency.
- (5) "Federal agency" means any department, agency, or instrumentality of the United States.
- (6) "Supplier of water" means any person who owns or operates a public water system.
- (7) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (8) "Administrator" means the administrator of the United States Environmental Protection Agency.
- (9) "Federal Act" means the Safe Drinking Water Act, P.L. 93-523.

*Edited accordingly.

- (10) "Primary Drinking Water Regulation" means a regulation which:
- (A) Applies to public water systems;
 - (B) Specifies contaminants which, in the judgment of the director, may have any adverse effect on the health of persons;
 - (C) Specifies for each contaminant either
 - (i) A maximum contaminant level if, in the judgment of the director, it is economically and technologically feasible to ascertain the level of such contaminant in public water systems; or
 - (ii) If, in the judgment of the director, it is not economically or technologically feasible to ascertain the contaminant level, each treatment technique known to the director which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section -2; and
- (D) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, it includes quality control and testing procedures to insure compliance with such levels and proper operation and maintenance of the system, and requirements as to:
- (i) The minimum quality of water which may be taken into the system; and
 - (ii) Siting for new facilities for public water systems.
- (11) "Secondary Drinking Water Regulation" means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the director, are requisite to protect the public welfare.
- (12) "National Primary Drinking Water Regulations" means primary drinking water regulations promulgated by the administrator pursuant to the Federal Act.
- (13) "Injection" means the subsurface emplacement of any material, liquid, semi-solid, or solid, or any admixture thereof, which may add a contaminant to underground waters.

Sec. -2 Drinking water standards.

- (1) The director shall promulgate and enforce State Primary Drinking Water Regulations and may promulgate and enforce State Secondary Drinking Water Regulations. State Primary Drinking Water Regulations shall protect health to the extent feasible, using technology, treatment techniques, and other means which are generally available, taking cost into consideration. Maximum contaminant levels covered by revised National Primary Drinking Water Regulations shall be set at a level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. Treatment techniques covered by revised National Primary Drinking Water Regulations shall require treatment necessary to prevent known or anticipated adverse effects on the health of persons. The State Primary Drinking Water Regulations shall be not less

- stringent than the National Primary Drinking Water Regulations in effect at that time.
- (2) Subject to section -3, State Primary and Secondary Drinking Water Regulations shall apply to each public water system in the State; however, such regulations shall not apply to a public water system which:
- (A) Consists only of distribution and storage facilities (and which does not have any collection and treatment facilities); and
 - (B) Obtain all of its water from, but is not owned or operated by, a public water system to which such regulations apply.
- (3) The director shall adopt and implement procedures for the enforcement of State Primary Drinking Water Regulations, including monitoring, inspection, and recordkeeping procedures, that comply with regulations established by the administrator pursuant to the Federal Act.
- (4) The director may promulgate and enforce regulations relating to cross-connection and backflow prevention control.
- (5) The director shall promulgate regulations establishing an underground injection control program. Such program shall prohibit, effective not later than December 16, 1977, any underground injection which is not authorized by a permit issued by the director, except that the director may authorize underground injection by regulation. Underground injection authorized by regulation shall not endanger drinking water sources. Any underground injection control program shall:
- (A) Set standards and prohibitions controlling any underground injection if such injection may result in the presence of any contaminant in underground water which supplies or may be expected to supply any public water system, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.
 - (B) Require, in the case of a program which authorizes underground injection by permit, that the applicant for the permit satisfy the director that the underground injection will meet the requirements of subsection (A) of this section.
 - (C) Conform to all requirements of the Federal Act and any applicable regulations promulgated thereunder.
 - (D) Include inspection, monitoring, recordkeeping, and reporting requirements.

Sec. -3 Variances and exemptions. The director may issue variances or exemptions from the regulations issued pursuant to section -2 under conditions and in a manner consistent with the public interest; however, such variances or exemptions are not permitted under conditions less stringent than the conditions under which variances and exemptions may be granted under the Federal Act.

Sec. -4 Imminent hazards. The director may, upon learning that a contaminant is present in or is likely to enter a public water system and may

present an imminent and substantial danger to the public, take such actions necessary to protect the health of the public. The actions which the director may take include but are not limited to:

- (1) Issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers); and
- (2) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

Sec. -5 Plan for emergency provision of water. The director shall promulgate a plan for the provision of safe drinking water under emergency circumstances. When the director determines that emergency circumstances exist in the State with respect to a need for safe drinking water, he may take such actions as necessary to provide water where it otherwise would not be available.

Sec. -6 Notification of users and regulatory agencies. Whenever a public water system:

- (1) Is not in compliance with the State Primary Drinking Water Regulations;
- (2) Fails to perform monitoring required by regulations adopted by the director;
- (3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements prescribed by a variance or exemption,

the public water system shall promptly notify the department, the administrator, and local communications media of the conditions and the extent to which they may impose adverse effects on public health. At least once every three months so long as the violation, variance, or exemption continues, the public water system shall also publish notice in a newspaper of general circulation within the areas served by the public water system. Such notice shall also accompany the water bills of the public water system so long as the violation, variance, or exemption continues, as follows: if the water bills are issued more than once every three months, such notice shall be included in at least one water bill of the system for each customer every three months; if the water bills are issued less than once every three months, such notice shall be included in each of the water bills issued by the system for each customer. However, the director may prescribe by regulations alternative notice requirements for systems principally serving non-resident users.

Sec. -7 Prohibited acts. The following acts are prohibited:

- (1) Failure by a supplier of water to comply with the requirements of section -5, or dissemination by any supplier of false or misleading information with respect to notices required pursuant to section -6 or with respect to remedial actions undertaken to achieve compliance with State Primary Drinking Water Regulations;
- (2) Failure by a supplier of water to comply with regulations promulgated pursuant to section -2 or with the conditions for variances or exemptions issued under section -3; and

- (3) Failure by any person to comply with any order issued by the director pursuant to this chapter.

Sec. -8 Remedies. The director may enforce this chapter in either administrative or judicial proceedings:

- (1) **Administrative.** If the director determines that any person is violating any provision of this chapter, any rule or regulation promulgated thereunder, or any variance or exemption issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay a civil penalty not to exceed \$5,000 for each day of violation, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon such request the director shall specify a time and place for the alleged violator to appear. When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within 24 hours after service of the order. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind his order as he deems appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this subsection.
- (2) **Judicial.** The director may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of any order or regulation issued pursuant to this Act, in addition to any other remedy provided for under this section.

Sec. -9 Administration. The director may:

- (1) Perform any and all acts necessary to carry out the purposes and requirements of this chapter;
- (2) Administer and enforce the provisions of this chapter and all rules, regulations, and orders promulgated;
- (3) Enter into agreements, contracts, or cooperative arrangements with any person;
- (4) Receive financial and technical assistance from the federal government and other public or private agencies;
- (5) Participate in related programs of any public or private agencies or organizations;
- (6) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of an accounting for funds appropriated or received for the purpose of carrying out this chapter;
- (7) Delegate those responsibilities and duties as appropriate for the purpose of administering the requirements of this chapter;
- (8) Establish and collect fees for conducting plan reviews, inspections and laboratory analyses as necessary; and

(9) Prescribe such regulations as necessary to carry out his function under this chapter."

SECTION 2. Repeal. Chapter 328A, Hawaii Revised Statutes, is repealed.

SECTION 3. Severability. The provisions of this Act are severable; if any provision or application of this Act is held invalid, such invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application.

SECTION 4. Effective Date. This Act shall take effect upon its approval.

(Approved May 12, 1976.)

ACT 85

S.B. NO. 2527-76

A Bill for an Act Relating to the Family Court.

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

SECTION 1. **Purpose.** The purpose of this Act is to modernize Chapter 571 relating to the family court to better assist and protect the families whose unity or well-being is threatened and provide for each child coming within the jurisdiction of the court through a juvenile justice system which responds to the concerns of the community, preserves the family and emphasizes the need of each individual child processed through the system and to provide a fair method of terminating parental rights in conformity with constitutional mandate.

SECTION 2. Section 571-1, Hawaii Revised Statutes, is amended to read:

"Sec. 571-1 Construction and purpose of chapter. This chapter shall be liberally construed to the end that children and families whose rights and well-being are jeopardized shall be assisted and protected, and secured in those rights through action by the court; that the court may formulate a plan adapted to the requirements of the child and his family and the necessary protection of the community, and may utilize all State and community resources to the extent possible in its implementation.

This chapter creates within this State a system of family courts and it shall be a policy and purpose of said courts to conduct all proceedings to the end that no adjudication by the court of the status of any child under this chapter shall be deemed a conviction; no such adjudication shall impose any civil disability ordinarily resulting from conviction; no child shall be found guilty or be deemed a criminal by reason of such adjudication; and no child shall be charged with crime or be convicted in any court except as provided in section 571-22. The disposition made of a child or any evidence given in the court, shall not operate to disqualify the child in any civil service or military application or appointment. Any evidence given in any case under section 571-11 shall not in any civil, criminal, or other cause in any court be lawful or proper evidence against the child for any purpose whatever except in subsequent cases involving the same child under section 571-11."

SECTION 3. Section 571-2, Hawaii Revised Statutes, is amended to read:

“Sec. 571-2 Definitions. When used in this chapter, unless the context otherwise requires:

- (1) “Court” means one of the family courts as herein established.
- (2) “Judge” means judge of the family court.
- (3) “Senior judge” means the judge so designated, as provided in this chapter.
- (4) “Board” means the board of family court judges.
- (5) “Child” or “minor” means a person less than eighteen years of age.
- (6) “Adult” means a person eighteen years of age or older.
- (7) “Detention” means the temporary care of children who require secure custody for their own or the community’s protection in physically restricting facilities pending court disposition.
- (8) “Shelter” means the temporary care of children in physically unrestric-ting facilities pending court disposition.
- (9) “Guardianship of the person of a minor” means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about his general welfare. It includes but shall not necessarily be limited in either number or kind to:
 - (A) The authority to consent to marriage, to enlistment in the armed forces of the United States, or to major medical, psychiatric, and surgical treatment; to represent the minor in legal actions; to make other decisions concerning the minor of substantial legal significance;
 - (B) The authority and duty of reasonable visitation, except to the extent that the right of visitation has been limited by court order;
 - (C) The rights and responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent, except where legal custody has been vested in another individual, agency, or institution;
 - (D) The authority to consent to the adoption of the minor and to make any other decision concerning him which his parents could make, when the rights of his parents, only living parent, have been judicially terminated as provided for in the statutes governing termination of parental rights to facilitate legal adoption, or when both of his legal parents are deceased.
- (10) “Legal custody” means the relationship created by the court’s decree which imposes on the custodian the responsibility of physical possession of the minor and the duty to protect, train, and discipline him and to provide him with food, shelter, education, and ordinary medical care, all subject to residual parental rights and responsibilities and the rights and responsibilities of any legally appointed guardian of the person.
- (11) “Residual parental rights and responsibilities” means those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including, but not necessarily

- limited to, the right to reasonable visitation, consent to adoption or marriage, and the responsibility for support.
- (12) "Commit" means to transfer legal custody.
 - (13) "Probation" means a legal status created by court order following adjudication in a case involving a violation of law whereby a minor is permitted to remain in his home or in a community residential or non-residential program subject to supervision by the court or an agency designated by the court and subject to return to the court for violation of probation at any time during the period of probation.
 - (14) "Protective supervision" means a legal status created by court order in proceedings not involving violations of law but where the legal custody of the minor is subject to change, whereby the minor is permitted to remain in his home or in a community residential or non-residential program under the supervision of the court or an agency designated by the court and subject to return to the court during the period of protective supervision.
 - (15) The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of this chapter."

SECTION 4. Section 571-11, Hawaii Revised Statutes, is amended to read:

"Sec. 571-11 Jurisdiction; children. Except as otherwise provided herein, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age which would constitute a violation or attempted violation of any federal, state or local law or municipal ordinance. Regardless of where the violation occurred jurisdiction may be taken by the court of the circuit where the person resides, is living or is found, or in which the offense is alleged to have occurred.
- (2) Concerning any child living or found within the circuit.
 - (A) Who is neglected as to proper or necessary support, or as to medical or other care necessary for his well-being, or who is abandoned by his parent or other custodian; or
 - (B) Who is subjected to physical or emotional deprivation or abuse as a result of the failure of any person or agency to exercise that degree of care for which he or it is legally responsible; or
 - (C) Who is beyond the control of his parent or other custodian or whose behavior is injurious to his own or others' welfare; or
 - (D) Who is neither attending school nor receiving educational services required by law whether through his own misbehavior or nonattendance or otherwise.
- (3) To determine the custody of any child or appoint a guardian of the person of any child.
- (4) For the adoption of a person under chapter 578.
- (5) For the termination of parental rights under sections 571-61 to 571-63.
- (6) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law.

ACT 85

- (7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child.
- (8) Under the Interstate Compact on Juveniles under chapter 582."

SECTION 5. Section 571-13, Hawaii Revised Statutes, is amended to read:

"Sec. 571-13 Retention of jurisdiction. Except as provided in section 571-22, jurisdiction obtained by the court in the case of a child may be retained by it, for the purposes of this chapter, after he becomes eighteen years of age until the full term for which any order entered shall have expired, provided that such term shall not extend beyond the time he achieves nineteen years of age unless judicially terminated prior thereto. This provision shall not be construed, however, to confer any jurisdiction upon the Family Court over a person for any criminal act committed after he achieves eighteen years of age."

SECTION 6. Section 571-14, Hawaii Revised Statutes, is amended to read:

"Sec. 571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by his parent or guardian or by any other person having his legal or physical custody, and any violation of sections 707-723, 709-902, 709-903, 709-904, or 709-905, whether or not included in other provisions of this paragraph or paragraph (2).

- (2) To try any adult charged with:

- (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
- (B) An offense, other than a felony, against the person of the defendant's husband or wife.

In any case within paragraphs (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 579.
- (4) In proceedings under chapter 575, the Uniform Deserter and Nonsupport Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22."

SECTION 7. Section 571-31, Hawaii Revised Statutes, is amended to read:

"Sec. 571-31 Taking children into custody; release; notice. A child may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that a child comes within section 571-11(1) or 571-11(2).

When an officer or other person takes a child into custody the parents, guardian, or legal custodian shall be notified immediately. The child shall be released to the care of his parent or other responsible adult unless his immediate welfare or the protection of the community requires that he be detained. If the person taking the child into custody believes it desirable, he may request the parent, guardian, or legal custodian to sign a written promise to bring the child to the court at the time directed by the court.

If a parent or other responsible custodian fails to produce the child in court as required by an authorized notice, or when notified by the court, a summons or a warrant may be issued for the apprehension of that person or the child or both. The court may assess the cost of the issuance and execution of the summons or warrant against the person.

SECTION 8. Section 571-32, Hawaii Revised Statutes, is amended to read:

"Sec. 571-32 Detention; shelter; release; notice. (a) If the child is not released as provided in section 571-31, he shall be taken without unnecessary delay to the court or to the place of detention or shelter designated by the court. Any child taken into custody who requires care away from his home but who does not require secure physical restriction shall be given temporary care in any available foster family home or other shelter facility.

The officer or other person who brings a child to a detention or shelter facility shall at once give notice to the court, stating the legal basis therefor and the reason why the child was not released to his parents. In case the facility to which the child is taken is not an agency of the court, the person in charge of the facility in which the child is placed shall promptly give notice to the court that the child is in his custody. Prior to acceptance of the child for detention or shelter care, a prompt inquiry shall be made by a duly authorized staff member of the detention or shelter facility or officer of the court. Where it is deemed in the best interests of the child the judge or such officer or staff member or the director of detention services may then order the child or minor to be released, if possible, to the care of his parent, guardian, legal custodian, or other responsible adult, or he may order the child held in the facility subject to further order or placed in some other appropriate facility.

As soon as a child is detained, his parents, guardian, or legal custodian shall be informed, by personal contact or by notice in writing on forms prescribed by the court, that they may have a prompt hearing held by a circuit judge or district family judge regarding release or detention. A child may be released on the order of the judge with or without a hearing. The director of detention services may order the release of the child if an order of detention has not been made.

(b) No child shall be held in detention or shelter longer than forty-eight hours, excluding Sundays and court holidays, unless a petition has been filed or unless the judge shall otherwise order. No child may be so held longer than forty-eight hours, excluding Sundays and court holidays, after the filing of a petition

unless an order for such continued detention or shelter has been signed by the judge.

(c) No child shall be released from such detention except in accordance with this chapter.

(d) No child shall at any time be detained in a police station, lockup, jail, or prison, except that, by the judge's order in which the reasons therefor shall be specified, a child whose conduct or condition endangers his own safety or the safety of others in the detention facility for children may be placed in some other place of confinement that the judge considers proper, including a jail or any other place of detention for adults.

(e) Where a child transferred for criminal proceedings in accordance with section 571-22 is detained, he shall be held in the detention facility used for persons charged with crime. When a child is ordered committed to an agency or institution, he shall be promptly transported to the place of commitment.

(f) Provisions regarding bail shall not be applicable to children detained in accordance with this chapter, except that bail may be allowed after a child has been transferred for criminal prosecution in accordance with section 571-22.

(g) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child who is or appears to be under eighteen years of age is received at the facility.

SECTION 9. Section 571-41, Hawaii Revised Statutes, is amended to read:

"Sec. 571-41 Procedure in children's cases. Cases of children in proceedings under section 571-11(1) and (2) shall be heard by the court separate from hearings of adult cases and without a jury. Stenographic notes or mechanical recordings shall be required as in other civil cases in the circuit courts, unless the parties waive the right of such record or the court so orders. The hearings may be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded and only such persons admitted whose presence is requested by the parent or guardian or as the judge or district family judge finds to have a direct interest in the case or in the work of the court from the standpoint of the best interests of the child involved. Prior to the start of a hearing, the parents, guardian, legal custodian, and, when appropriate, the minor shall be notified of the right to be represented by counsel.

Findings of fact by the judge or district family judge of the validity of the allegations in the petition shall be based upon a preponderance of evidence admissible in the trial of civil cases except for petitions alleging the court's jurisdiction under section 571-11(1) which shall require proof beyond a reasonable doubt in accordance with rules of evidence applicable to criminal cases, provided, that no child who is before the court under section 571-11(1) shall have admitted against him any evidence in violation of his rights secured under the constitution of the United States or the State of Hawaii. In the discretion of the judge or district family judge the child may be excluded from the hearing at any time. When more than one child is alleged to have been involved in the same act, the hearing may be held jointly for the purpose of making a finding

as to the allegations in the petition and then shall be heard separately for the purpose of disposition except in cases where the minors involved have one common parent.

In the disposition part of the hearing any relevant and material information, including that contained in a written report, study, or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided, that the maker of the written report, study, or examination shall be subject to both direct and cross-examination upon demand and when he is reasonably available. The disposition shall be based only upon the admitted evidence, and findings adverse to the child as to disputed issues of fact shall be based upon a preponderance of such evidence.

Upon a final adverse disposition, if the parent or guardian is without counsel the court shall inform the parent or guardian of his right to appeal as provided for in section 571-54.

The judge or the senior judge if there is more than one may by order confer concurrent jurisdiction on a district court created under chapter 604 to hear and dispose of cases of violation of traffic laws or ordinances by children, provision to the contrary in section 571-11 or elsewhere notwithstanding. The exercise of jurisdiction over children by district courts shall, nevertheless, be considered non-criminal in procedure and result in the same manner as though the matter had been adjudicated and disposed of by a family court."

SECTION 10. Section 571-42, Hawaii Revised Statutes, is amended to read:

"Sec. 571-42 Procedure in adult cases. In any criminal proceeding arising under section 571-14 the court, with the consent of the defendant or the parties in interest, may make a preliminary investigation and such adjustment as is practicable, without prosecution. The procedure and disposition applicable in the trial of such cases in a criminal court shall be applicable to any trial in the family court. On request of the court, the appropriate prosecuting officer shall prepare and prosecute any criminal case within the purview of section 571-14.

Where in his opinion it is necessary to protect the welfare of the persons before the court, the judge may conduct hearings in chambers, and may exclude persons having no direct interest in the case.

In proceedings arising under section 571-14(3), (4) or (5) the court may also make a preliminary investigation and, with consent of the parties in interest, may make such adjustment as is practicable without further formal procedures.

In any noncriminal proceeding arising under section 571-14, any findings of fact or disposition shall be based upon a preponderance of evidence admissible under the rules of evidence applicable to the trial of civil cases."

SECTION 11. Section 571-48, Hawaii Revised Statutes, is amended to read:

"Sec. 571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected. When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction

over the minor. Upon such decree the court shall, by order duly entered, proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
 - (A) The court may place the child on probation in his own home or in the custody of a suitable person elsewhere, upon conditions determined by the court.
 - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in the Hawaii youth correctional facility in a local public agency or institution; or in any private institution or agency authorized by the court to care for children; or place him in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department.
- (2) As to a child adjudicated under section 571-11(2):
 - (A) The court may place the child under protective supervision, as hereinabove defined, in his own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
 - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the state to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11(1) or in any private agency or institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department; provided, however, that the child may not be committed to a public or private institution operated solely for the treatment of law violators.
- (3) An order vesting legal custody in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court may, after notice to the parties, conduct a hearing of the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise

- authorized by the court.
- (4) Whenever the court commits a child to the care of the director of social services or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this subsection shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized under section 352-27.
 - (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
 - (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
 - (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.
 - (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other.
 - (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.
 - (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law.

SECTION 12. Section 571-49, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 571-50, Hawaii Revised Statutes, is amended to read:

“Sec. 571-50 Modification of decree, rehearing. Except as otherwise provided by this chapter, any decree or order of the court may be modified at any time.

At any time during supervision of a child the court may issue notice or other appropriate process to the child if he is of sufficient age to understand the nature of the process, to the parents, and to any other necessary parties to appear at a hearing on a charge of violation of the terms of supervision, for any change in or modification of the decree or for discharge. The provisions of this chapter relating to process, custody, and detention at other stages of the proceeding shall be applicable.

A parent, guardian, custodian, or next friend of any child whose status has been adjudicated by the court, or any adult affected by a decree of the court, may at any time petition the court for a rehearing on the ground that new evidence, which was not known or not available through the exercise of due diligence at the time of the original hearing and which might affect the decree, has been discovered. Upon a satisfactory showing of such evidence, the court shall order a new hearing and make such disposition of the case as the facts and the best interests of the child warrant.

A parent, guardian, or next friend of a child whose legal custody has been transferred by the court to an institution, facility, agency, or person may petition the court for modification or revocation of the decree, on the ground that such legal custodian has wrongfully denied application for the release of the child or has failed to act upon it within a reasonable time, or has acted in an arbitrary manner not consistent with the welfare of the child or the public interest. An institution, facility, agency, or person vested with legal custody of a child may petition the court for a renewal, modification, or revocation of the custody order on the ground that such change is necessary for the welfare of the child or in the public interest. The court may dismiss the petition if on preliminary investigation it finds it without substance. If the court is of the opinion that the decree should be reviewed, it shall conduct a hearing on notice to all parties concerned, and may enter an order continuing, modifying, or terminating the decree.

Notwithstanding the foregoing provisions of this section the court's authority with respect to the review, rehearing, renewal, modification, or revocation of decrees, judgments, or orders entered in the hereinbelow listed classes of proceedings shall be limited by any specific limitations set forth in the statutes governing such proceedings or in any other specifically applicable statutes or rules. Such proceedings are as follows:

- (1) Annulment, divorce, separation, and other proceedings under chapter 580;
- (2) Adoption proceedings under chapter 578;
- (3) Paternity proceedings under chapter 579;
- (4) Termination of parental rights proceedings under this chapter;
- (5) Waimano training school and hospital commitment proceedings under chapter 333;
- (6) State hospital commitment proceedings under chapter 334;

A decree, judgment, or order committing a child to the care of the director of social services shall be reviewable under this section at the instance of others than duly authorized representatives of such department only after a lapse of thirty days following the date of the decree, judgment, or order, and thereafter only at intervals of not less than one year.

Notwithstanding this section the court shall not conduct a rehearing of any petition, filed under section 571-11(1), which, following a hearing, has been denied or dismissed."

SECTION 14. Section 571-61, Hawaii Revised Statutes, is amended to read:

"Sec. 571-61 Termination of parental rights; petition. (a) **Relinquishment.** The parents or either parent or the surviving parent who desire to relinquish parental rights to any natural or adopted child and thus make the child available for adoption or readoption, may petition the family court of the circuit in which they or he or she resides, or of the circuit in which the child resides, or was born, for the entry of a judgment of termination of parental rights. The petition shall be verified and shall be substantially in such form as may be prescribed by the judge or senior judge of the family court. The petition may be filed at any time following the mother's sixth month of pregnancy; provided, that no judgment may be entered upon a petition concerning an unborn child until after the birth of the child and in respect to a legal parent or parents until the petitioner or petitioners have filed in the termination proceeding a written reaffirmation of their desires as expressed in the petition or in respect to a legal parent or parents until the petitioner or petitioners have been given not less than ten days' notice of a proposal for the entry of judgment and an opportunity to be heard in connection with such proposal.

(b) **Involuntary termination.**

- (1) The family courts may terminate the parental rights in respect to any child as to any legal parent:
 - (A) Who has deserted the child without affording means of identification for a period of at least 90 days;
 - (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
 - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
 - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
 - (E) Whose child has been removed from his physical custody pursuant to legally authorized judicial action under section 571-11(2) (A), and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
 - (F) Who is found by the court to be mentally ill or mentally retarded and incapacitated from giving consent to the adoption of or from providing adequate care to the child;
 - (G) Who is found not to be the child's natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption, or who is named as the father on the child's birth certificate:

- (A) Who fails within subparagraphs (b) (1) (A), (B), (C), (D), (E), or (F) of paragraph (b) of section 571-61;
 - (B) Whose child is sought to be adopted by the child's stepfather and said stepfather has lived with said child and said child's legal mother for a period of at least one year;
 - (C) Who has failed to file a petition for the adoption of said child or whose petition for the adoption of said child has been denied;
 - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to proceedings under paragraphs (1) and (2) herein, the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. In the event that personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption.

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to said father, the court shall conduct a hearing to determine whether notice must be given.

In the event the court finds that good cause exists why notice cannot or should not be given to the child's father, and that said father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of said father's parental rights and the subsequent adoption of said child without notice to said father."

SECTION 15. Section 571-63, Hawaii Revised Statutes, is amended to read:

"Sec. 571-63 Findings and judgment. No judgment of termination of parental rights entered under sections 571-61 to 571-63 shall be valid or binding

unless it contains a finding that the facts upon which the petition is based bring the child within such sections and have been proved by the evidence and that the adjudication of termination of parental rights is necessary for the protection and preservation of the best interests of the child concerned and will facilitate the legal adoption of the child.

In any judgment entered pursuant to sections 571-61 to 571-63 the court may terminate the parental rights of one or both of the parents of the child concerned, may transfer the care, custody and control of the child to any proper person not forbidden by law to place a child for adoption or to the department of social services and housing or to any child-placing organization approved by the department, may appoint a guardian of the person of the child, and may authorize the person or the department or the agency or the guardian to consent to the legal adoption of the child.

No judgment of termination of parental rights entered under sections 571-61 to 571-63 shall operate to terminate the mutual rights of inheritance of the child and the parent or parents involved, or to terminate the legal duties and liabilities of the parent or parents, unless and until the child has been legally adopted.

Every such judgment of termination of parental rights when the procedural provisions of sections 571-61 to 571-63 have been followed shall become final and binding upon all of the parties concerned as of the date of its entry and filing, subject to the right of appeal. No such judgment shall be set aside for reasons other than the best interests and welfare of the child concerned, after the entry of a decree of adoption of the child concerned or during any period when the child is in an adoptive home in which the child has been placed by the department of social services and housing or by a child-placing organization approved by the department or by any person not forbidden by law to place a child for adoption. When any such child is placed for adoption, a sworn certificate evidencing the placement shall be filed in the termination proceeding by the agency or person making the placement. Upon the entry of a final decree of adoption of any such child, a certified copy of the decree shall be filed in the termination proceeding and notification of the entry of the decree, without disclosing the identity of the adopting parents, shall, unless waived by the court, be given to each person whose parental rights have been terminated by registered or certified mail addressed to the last known address of each such person; provided, that at any time following the expiration of one year from the date of the entry of any such judgment of termination of parental rights, upon the motion of the parent or parents of the child or the department of social services and housing or any child-placing organization approved by the department or any other proper person, based upon the fact that the child has not been adopted or placed in a prospective adoptive home, the court in which the judgment was entered shall review the same and shall consider the currently reported circumstances of the child and of the parent or parents and shall enter its findings as to whether the circumstances, and the present best interests of the child, justify the continuance of the judgment. Upon such reconsideration, the court may either set aside the judgment or continue it in effect, as the circumstances may warrant. Upon the entry in the termination proceeding of a certified copy of the final decree of adoption of any

ACT 86

such child and notification thereof to the person whose parental rights have been terminated, unless waived as herein provided, or upon the dismissal or discontinuance or other final disposition of the petition in the termination proceeding the clerk of the court shall seal all records in the termination proceeding and the seal shall not be broken and the records shall not be inspected by any person, including the parties to the termination proceeding, except upon order of the court.”

SECTION 16. Section 571-72, Hawaii Revised Statutes, is amended to read:

“Sec. 571-72 Duties and powers; reports. The juvenile crime prevention bureau shall direct its attention specifically to the suppression, prevention, and investigation of crimes committed by children under the age of eighteen years, and any police officer shall have the power and authority to take and detain any minor coming within section 571-11 at the bureau or other suitable places for questioning and investigation. If it appears upon conclusion of the investigation that the minor does come within such provisions, he may be referred to the family court or to a proper agency for treatment, and a written report of the findings of the officer shall be submitted to the court or the agency.”

SECTION 17. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 18. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 19. This Act shall take effect upon its approval.

(Approved May 12, 1976.)

ACT 86

S.B. NO. 2572-76

A Bill for an Act Relating to Short Term Investment of County Moneys.

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

SECTION 1. Section 46-50, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 46-50 Short term investment of county moneys. The director of finance of each county may, with the approval of the legislative body, invest county moneys which are in excess of the amounts necessary for the meeting of immediate requirements when in the judgment of the legislative body such action will not impede or hamper the necessary financial operations of the county, in bonds or interest bearing notes or obligations of the county, of the State, of the

*Edited accordingly.

United States, or of agencies of the United States for which the full faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds, or in bank savings accounts, or in time certificates of deposit, or in certificates of deposit open account, or in bonds of any improvement district of any county of the State, or in bank repurchase agreements; provided the investments are due to mature not more than three years from the date of investment. The income derived therefrom shall be deposited in such fund or funds as the legislative body shall direct, provided that if any money invested under this section belongs to any waterworks fund, then any income derived therefrom shall be paid into and credited to the fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 87

S.B. NO. 2703-76

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Section 281-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Hotel” means an establishment consisting of one or more buildings which contain (1) such total number of rooms as may be prescribed by the commission and in which rooms sleeping accommodations are provided and offered for adequate pay to transient or permanent guests; and (2) a suitable and adequate kitchen and dining room, where meals are regularly prepared and served to hotel guests and other customers.”

SECTION 2. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 281-31 Licenses, classes. Licenses may be granted by the liquor commission as follows:

Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;

*Edited accordingly.

- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturer's license to have any interest whatsoever in the license or licensed premises of any other licensee.

Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods. The 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. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where his place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer has his license, or by direct shipment from outside the State on indent orders. 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 service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise as a common carrier, under chapter 269, engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

Class 4. Retail dealers' licenses. A license to sell liquors at retail shall authorize the licensee to sell the liquors therein specified in their original packages. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

Class 5. Dispensers' licenses. A dispenser's license shall authorize the licensee to sell liquors therein specified for consumption on the premises. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide

club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

Class 8. 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 the vessel while in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessel. The license shall be issuable in each county where the sales are to be made and the application for the license may be made by any agent representing the owner.

Class 9. Tour or cruise vessel licenses. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State, the same shall constitute a violation of this chapter.

Class 10. Special. A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under such conditions as may be approved by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Under such license the liquors therein specified shall be consumed on the premises.

Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, and professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to sell all liquors, except alcohol, for consumption on the premises; provided that the liquor commissions in each county shall adopt rules, as deemed appropriate by each respective liquor commission, restricting holders of hotel licenses in selling liquors as authorized by retail dealers' licenses.

Sections 281-57 to 281-61 shall not apply to classes 7 to 10."

SECTION 3. Section 281-83, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 281-83 Payment of liquor tax to be made. Whenever liquor is purchased by the holder of a retail, dispenser, club, cabaret, hotel, or vessel license from the holder of a manufacturer's or wholesale license, the amount added to the price on account of the tax imposed by chapter 244, as provided by section 244-5, shall be paid by the purchaser within twenty days after the end of the month in which the purchase has been made. On the failure to make the payment within such time the liquor commission may in its discretion suspend the license of the purchaser for a period of not more than ten days for the first failure and not more than twenty days for any subsequent failure.

The holder of a manufacturer's or wholesale license shall report the failure of a purchaser to comply with this section to the commission of the county in which the purchaser holds a license, in order that the suspensions provided by this section may be enforced by the commission. Any holder of a manufacturer's or wholesale license who fails to make such report may likewise be subject to the suspensions hereinabove provided."

SECTION 4. Upon application in the manner prescribed by section 281-53, Hawaii Revised Statutes, a hotel license may be issued for premises which qualify as a hotel within the meaning of this Act; provided the applicant held a valid dispenser's or cabaret license for the same premises on June 30, 1976. The provisions of section 281-52 and sections 281-54 to 281-60, Hawaii Revised Statutes, shall not apply to the granting of a hotel license to an applicant whose premises are under current license.

SECTION 5. Section 281-91, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 281-91 Revocation or suspension of license; hearing. The liquor commission may revoke any license at any time issued, or suspend the right of the licensee to use his license, or assess and collect a penalty, or reprimand the licensee, either for the violation of any condition of the license or of any provisions of this chapter or of any rule or regulation applicable thereto, or upon the conviction at law of the licensee of any violation of this chapter or of any other law relative to his license or the proper exercise thereof, or of any violation of law in any other respect on account whereof the commission may deem him to be an unfit or improper person to hold a license, or for any other cause deemed sufficient by the commission.

In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other than a conviction at law of the licensee as above specified, the licensee shall be entitled to notice and

hearing in conformity with chapter 91, the notice to be given at least five days before the hearing, except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission; provided, that the exercise of a license shall in no case be suspended or revoked for any violation (other than a conviction at law of the licensee as above specified) based upon the personal observation of any inspector, unless written notice of the violation charged to have occurred shall have been given to the licensee within ten days after the alleged violation occurred, and the licensee shall have been given a hearing upon the charge not more than sixty nor less than five days after the giving of notice of the alleged violation.

At the hearing, before final action is taken by the commission, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for the proposed action do not exist, or any reasons why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to the licensee upon his request and at his expense.

Any order of revocation or suspension or reprimand imposed by the commission upon the licensee shall be in addition to any penalty that might be imposed upon the licensee upon his conviction at law for any violation of this chapter. No licensee shall be subject to both the penalty assessed and collected by the commission and to revocation or suspension of license. The amount of penalty assessed and collected by the commission from any licensee for any particular offense shall not exceed the sum of \$500.

Whenever the service of any order or notice shall be required by this section such service shall be made in the following manner: by serving a certified copy of the notice or order upon the holder of the license wherever he may be found in the circuit wherein he is licensed, or, if he cannot be found after diligent search, by leaving a certified copy thereof at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the holder of the license cannot be found after diligent search, and service cannot be made then service may be made by posting a certified copy of the notice or order in a conspicuous place on the licensed premises and depositing another certified copy thereof in the registered mail of the United States post office, postage prepaid, addressed to the holder of the license at his last known residence address; provided, that in the case of a licensed corporation or unincorporated association service may be made upon any officer thereof."

SECTION 6. Section 281-95, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 281-95 Bankruptcy, insolvency, death. If a licensee becomes a legally adjudicated bankrupt, or makes an assignment for the benefit of his creditors, or dies, before the expiration of the terms of his license, his trustee in bankruptcy, assignee, executor, or administrator, as the case may be, may, with the consent of the liquor commission, continue to exercise the license for the purpose of closing

ACT 88

the affairs of the estate; but if not so continued within forty-five days the commissions shall cancel the license.

If a mortgage on the premises covered by a license is foreclosed before the expiration of the term of the license, the mortgagee, or his authorized representative or a duly appointed commissioner of sale may, with the consent of the commission, continue to exercise the license or continue it in effect for the purpose of completing a sale of the premises under the foreclosure proceedings. Notwithstanding any rule or regulation of the commission to the contrary, the payment of any renewal fee for a license issued for the premises involved in foreclosure proceedings or additional fee accrued on the basis of gross sales made under such a license may be withheld until sale of the premises has been completed."

SECTION 7. Section 281-96, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 281-96 Cancellation. If the use of the premises covered by any license becomes lost to the licensee by reason of being sold under foreclosure proceedings, or a civil execution, or other legal process, or for any other cause, which shall force a cessation of the business of the licensee thereon under the license (other than by a revocation or suspension of his license), and no proper permission is obtained by the licensee to continue his business under the license at some other place, the liquor commission may cancel or suspend the license."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 88

H.B. NO. 2136-76

A Bill for an Act Relating to Expenditure of Public Money and Public Contracts.

SECTION 1. Section 103-28, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 103-28 Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, in a sum not less than five per cent of the amount bid, payable at sight to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be in a sum not less than \$2,500 plus two per cent of the amount in excess of \$50,000. A certificate of deposit, cashier's check or certified check may be utilized only to a maximum of \$40,000.

*Edited accordingly.

A bid deposit for a bid requiring a deposit in excess of \$40,000 shall only be in the form of legal tender or a surety bond conforming to the requirements of section 103-31."

SECTION 2. Section 102-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 102-6 Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender, or a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, in a sum not less than five per cent of the amount bid, payable at sight to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be in a sum not less than \$2,500 plus two per cent of the amount in excess of \$50,000. A certificate of deposit, cashier's check, or certified check may be utilized only to a maximum of \$40,000.

A bid deposit for a bid requiring a deposit in excess of \$40,000 shall only be in the form of legal tender or a surety bond conforming to the requirements of section 103-31."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the bracketed material and underscoring.*

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

(Approved May 12, 1976.)

ACT 89

H.B. NO. 2812-76

A Bill for an Act Relating to Exemption from Minimum Wage Law.

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

SECTION 1. Section 387-1, Hawaii Revised Statutes, is amended by amending the definition of "employee" to read:

"Employee" includes any individual employed by an employer, but shall not include any individual employed:

- (1) At a guaranteed compensation totaling \$700 or more a month, whether paid weekly, biweekly, or monthly;
- (2) In agriculture for any workweek in which the employer of the individual employs less than twenty employees or in agriculture for any workweek in which the individual is engaged in coffee harvesting;
- (3) In domestic service in or about the home of his employer or as a house parent in or about any home or shelter maintained for child welfare purposes by a charitable organization exempt from income tax under section 501 of the federal Internal Revenue Code;
- (4) By his brother, sister, brother-in-law, sister-in-law, son, daughter, spouse, parent, or parent-in-law;

*Edited accordingly.

- (5) In a bona fide executive, administrative, supervisory, or professional capacity or in the capacity of outside salesman, or as an outside collector;
- (6) In the propagating, catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal or vegetable life, including the going to and returning from work and the loading and unloading of such products prior to first processing;
- (7) As a seaman;
- (8) As a driver of a vehicle carrying passengers for hire operated solely on call from a fixed stand;
- (9) As a golf caddy;
- (10) By a nonprofit school during the time such individual is a student attending such school;
- (11) In any capacity if by reason of his employment in such capacity and during the term thereof the minimum wage which may be paid the employee or maximum hours which the employee may work during any workweek without the payment of overtime, are prescribed by the federal Fair Labor Standards Act of 1938, as amended, or as the same may be further amended from time to time; provided, that if the minimum wage which may be paid the employee under the Fair Labor Standards Act for any workweek is less than the minimum wage prescribed by section 387-2 then section 387-2 shall apply in respect to the employees for such workweek; provided further, that if the maximum workweek established for the employee under the Fair Labor Standards Act for the purposes of overtime compensation is higher than the maximum workweek established under section 387-3, then section 387-3 shall apply in respect to such employee for such workweek; except that the employee's regular rate in such an event shall be his regular rate as determined under the Fair Labor Standards Act; or
- (12) As a seasonal youth camp staff member in a resident situation in a youth camp sponsored by charitable, religious, or non-profit organizations exempt from income tax under section 501 of the federal Internal Revenue Code or in a youth camp accredited by the American Camping Association.

"Industry" means a trade, business, industry, or branch thereof, or group of industries in which individuals are employed.

"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than \$20.00 a month in tips.

"Wage" means (except as the department may provide under section 387-11) legal tender of the United States or checks on banks convertible into cash on demand at full face value thereof and in addition thereto the reasonable cost as determined by the department, to the employer of furnishing an employee with board, lodging or other facilities if such board, lodging or other facilities are customarily furnished by such employer to his employees. Except for the purposes of the last sentence of Section 387-2, "wage" shall not include tips or

gratuities of any kind.

"Week" or "workweek" means a fixed and regularly recurring period of seven consecutive days.

"Agriculture" means agriculture as defined in section 3(f) of the Federal Fair Labor Standards Act of 1938, or as the same may be amended from time to time.

"Seasonal pursuit" means one in which it is customary in each year for the volume of employment in such pursuit to be substantially increased during a regularly recurring period or periods of seasonal activity, and in the remainder of the year, owing to climate or other natural conditions, for the volume of the employment to be substantially decreased. Periods of seasonal activity shall be considered as "regularly recurring", within the meaning of this paragraph, notwithstanding that such periods may vary from year to year.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 90

H.B. NO. 2130-76

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

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

SECTION 1. Section 521-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The landlord shall at all times during the tenancy:

- (1) Comply with all applicable provisions of any state or county law, code, ordinance, or regulation, noncompliance with which would have the effect of endangering health or safety, governing maintenance, construction, use, or appearance of the dwelling unit and the premises of which it is a part;
- (2) Keep common areas of a multi-dwelling unit premises in a clean and safe condition;
- (3) Make all repairs and arrangements necessary to put and keep the premises in a habitable condition;
- (4) Maintain all electrical, plumbing, and other facilities and appliances supplied by him in good working order and condition, subject to reasonable wear and tear;
- (5) Except in the case of a single family residence, provide and maintain appropriate receptacles and conveniences for the removal of normal amounts of rubbish and garbage, and arrange for the frequent removal of such waste materials; and

*Edited accordingly.

- (6) Except in the case of a single family residence, or where the building is not required by law to be equipped for the purpose, provide for the supplying of running water as reasonably required by the tenant.

Prior to the initial date of initial occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. Duplicate copies of this inventory shall be signed by the landlord and by the tenant and a copy given to each tenant. In an action arising under this section, the executed copy of the inventory shall be presumed to be correct."

SECTION 2. Section 521-43, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 521-43 Rental agreement, disclosure. (a) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

- (1) Each person authorized to manage the premises; and
- (2) Each person who is an owner of the premises or who is authorized to act for or on behalf of the owner for the purpose of service of process and receiving and receipting for rents, notices, and demands.

The information required to be furnished shall be kept current and shall be enforceable against any successor landlord, owner, or manager.

(b) A person who fails to comply with subsection (a) becomes an agent of each person who is a landlord for:

- (1) Service of process and receiving and receipting for rents, notices, and demands; and
- (2) Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

(c) Any owner or landlord not dealing directly with the tenant shall be responsible for compliance with this section by an owner or landlord dealing directly with the tenant and shall be estopped from any objection to a failure to serve process upon an owner or landlord in any proceeding arising under this chapter when such failure is due to failure to comply with this section. The owner or landlord who deals directly with the tenant and fails to comply with this section shall be deemed an agent of every other landlord under the rental agreement for performing the obligations of the landlord under this chapter and under the rental agreement.

(d) In the case of a written rental agreement, the landlord shall furnish a copy of the lease or rental agreement to the tenant.

(e) The landlord shall furnish to the tenant a written receipt for rents paid at the time of said payment. Cancelled checks shall also constitute and fulfill the requirement of a written receipt. If rent is paid by check, the landlord shall furnish a receipt therefor, provided such receipt is requested by the tenant.

(f) Any owner or landlord who resides without the State or on another island from where the rental unit is located must designate on the written rental agreement an agent residing on the same island where the unit is located to act in

his behalf. In the case of an oral rental agreement, such information shall be supplied to the tenant, on demand, in a written statement.

(g) Subsections (a) and (b) to the contrary notwithstanding, the information required to be disclosed to a tenant may, instead of being disclosed in the manner described in subsection (a) and (b), be disclosed as follows:

- (1) In each multi-unit single-owner dwelling structure containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in every elevator and in one other conspicuous place; or
- (2) In each multi-unit single-owner dwelling structure not containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in at least two conspicuous places.
- (3) In each multi-unit dwelling structure, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be posted within the unit in a conspicuous place."

SECTION 3. Section 521-45, Hawaii Revised Statutes, is amended to read:

"Sec. 521-45 Limitation of landlord and management liability. (a) Unless otherwise agreed, a landlord who conveys premises which include a dwelling unit subject to a rental agreement in a good faith sale to a person not connected with the landlord discloses in writing, in any form of contract for the sale of such premises is relieved of liability under the rental agreement and under this chapter as to events occurring subsequent to the conveyance.

(b) The new owner who purchases the premises referred to in subsection (a) is liable under the rental agreement and under this chapter.

(c) Unless otherwise agreed, a person who is a manager of premises which include a dwelling unit subject to a rental agreement is relieved of liability under the rental agreement and under this chapter as to events occurring subsequent to the termination of his management."

SECTION 4. Section 521-61, Hawaii Revised Statutes, is amended to read:

"Sec. 521-61 Tenant's remedies for failure by landlord to supply possession. (a) If the landlord fails to put the tenant into possession of the dwelling unit in the agreed condition at the beginning of the agreed term:

- (1) The tenant shall not be liable for the rent during any period he is unable to enter into possession;
- (2) At any time during the period the tenant is so unable to enter into possession he may notify the landlord that he has terminated the rental agreement; and
- (3) The tenant shall have the right to recover damages in the amount of reasonable expenditures necessary to secure adequate substitute housing, the recovery to be made either by action brought in the district court or by deduction from the rent upon submission to the landlord of receipts totaling at least

- (A) The amount of abated rent; plus
 - (B) The amount claimed against the rent; or
 - (4) If the inability to enter results from the wrongful holdover of a prior occupant, the tenant may maintain a summary proceeding in the district court for possession.
- (b) In any district court proceeding brought by the tenant under this section the court may award the tenant substitute housing expenditures, reasonable court costs, and attorney's fees."

SECTION 5. Section 521-64, Hawaii Revised Statutes, is amended to read:

"Sec. 521-64 Tenant's remedy of repair and deduction for minor defects.

(a) The landlord, upon written notification by the department of health or other state or county agencies that there exists a condition on the premises which constitutes a health or safety violation, shall commence repairs of the condition within five business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence the repairs within five business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence. Health or safety violations for the purpose of this section means any condition on the premises which is in noncompliance with section 521-42(a) (1).

(b) If the landlord fails to perform in the manner specified in subsection (a), the tenant may:

- (1) Immediately do or have done the necessary repairs in a workmanlike manner, and upon submission to the landlord of receipts amounting to at least the sum deducted, deduct from his rent not more than \$200 for his actual expenditures for work done to correct the health or safety violation; or
- (2) Submit to the landlord, at least five business days before having the work done, written signed estimates from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided that the landlord may require in writing a reasonable substitute workman or substitute materials, and upon submission to the landlord of receipts amounting to at least the sum deducted, the tenant may deduct \$200 or one month's rent, whichever is greater, for his actual expenditures for work done to correct the health or safety violation.

(c) The landlord, upon written notification by the tenant of any defective condition on the premises which is in material noncompliance with section 521-42(a) or with the rental agreement, shall commence repairs of the condition within twelve business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence repairs within twelve business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence.

(d) If the landlord fails to perform in the manner specified in subsection (c),

the tenant may immediately do or have done the necessary work in a workmanlike manner and upon submission to the landlord of receipts amounting to at least the sums deducted, deduct from his rent not more than \$200 for his actual expenditures for work done to correct the defective condition.

(e) At the time the tenant initially notifies the landlord under subsection (c), the tenant shall list every condition that he knows or should know of noncompliance under subsection (c), in addition to the objectionable condition that the tenant then intends to correct or have corrected at the landlord's expense. Failure by a tenant to list such a condition that he knew of or should have known of shall estop the tenant from requiring the landlord to correct it and from having it corrected at the landlord's expense under this section for a period of six months after the initial notification to the landlord. Total correction and repair work costs under this section chargeable to the landlord's expense during each six-month period shall not exceed an amount equal to three months' rent.

(f) In no event may a tenant repair a dwelling unit at the landlord's expense when the condition complained of was caused by the want of due care by the tenant, a member of his family, or other person on the premises with his consent.

(g) Before correcting a condition affecting facilities shared by more than one dwelling unit, the tenant shall notify all other tenants sharing such facilities of his plans, and shall so arrange the work as to create the least practicable inconvenience to the other tenants."

SECTION 6. Section 521-69, Hawaii Revised Statutes, is amended to read:

"Sec. 521-69 Landlord's remedies for tenant's waste, failure to maintain, or unlawful use. (a) If the tenant is in material noncompliance with section 521-51, the landlord, upon learning of any such noncompliance and after notifying the tenant in writing of the noncompliance and allowing a specified time not less than fifteen days after receipt of the notice, for the tenant to remedy the noncompliance:

- (1) May terminate the rental agreement and bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession if the tenant is in material noncompliance with section 521-51(1); or
- (2) May remedy the tenant's failure to comply and bill the tenant for the actual and reasonable cost of such remedy if the noncompliance can be remedied by the landlord by cleaning, repairing, replacing a damaged item, or the like, which bill shall be treated by all parties as rent due and payable on the next regular rent collection date or, if the tenancy has terminated, immediately upon receipt by the tenant.

No allowance of time to remedy noncompliance shall be required when noncompliance by the tenant causes or threatens to cause irremediable damage to any person or property.

(b) The landlord may terminate the rental agreement and bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession for any material noncompliance with section 521-51 by a roomer or boarder if the roomer or boarder fails to comply within the time specified in the notice.

ACT 91

(c) The landlord may bring an action or proceeding for waste or for breach of contract for damage suffered by the tenant's wilful or negligent failure to comply with his obligations under section 521-51."

SECTION 7. Section 521-72, Hawaii Revised Statutes, is amended to read:

"Sec. 521-72 Landlord's remedies for improper use. (a) If the tenant breaches any rule authorized under section 521-52, the landlord may notify the tenant in writing of his breach. The notice shall specify the time, not less than fifteen days, within which the tenant is required to remedy the breach and shall be in substantially the following form:

"(Name and address of tenant) (date)

You are hereby notified that you have failed to perform according to the following rule:

(specify rule allegedly breached)

Be informed that if you (continue violating) (again violate) this rule after (a date not less than fifteen days after this notice), the landlord may terminate the rental agreement and sue for possession of your dwelling unit."

No allowance of time to remedy the breach of any rule authorized under section 521-52 shall be required when the breach by the tenant causes or threatens to cause damage to any person or constitutes a violation of section 521-51(1) or (6).

(b) If the breach complained of continues or recurs after the date specified in the notice, the landlord may bring a summary proceeding for possession within thirty days after such continued or recurring breach."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 91

H.B. NO. 2131-76

A Bill for an Act Relating to Vehicles Left Unattended on Private Property.

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

SECTION 1. Section 290-11, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 290-11 Vehicles left unattended on private property. Notwithstanding any other provision of this chapter, any vehicle left unattended for more than 24 hours on private property, in any county with a population of less than 100,000 persons, and for any amount of time in any county with a population of more than 100,000 persons, without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the

*Edited accordingly.

vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall be of such size and be placed in a location reasonably calculated to call the sign to the attention of potential parkers. Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly and \$2 for each 24 hour period of storage or fraction thereof. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles.

Each county by ordinance may enact additional restrictions to this section or may enact criminal sanctions in this area as required."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 12, 1976.)

ACT 92

S.B. NO. 75

A Bill for an Act Relating to the Hawaii Paroling Authority.

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

SECTION 1. The purpose of this Act is to reconstitute the board of paroles and pardons as a professional board with full-time paid chairman and part-time paid members in order more effectively and efficiently to achieve the dual and inseparable purposes of parole, the protection of society on the one hand and the rehabilitation of the offender on the other.

SECTION 2. Section 353-61, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 353-61 Hawaii paroling authority; appointment; tenure; qualifications. Members of the paroling authority shall be nominated by a panel composed of the chief justice of the Hawaii supreme court, the director of the department of social services, the president of the Hawaii correctional association, the president of the Hawaii bar association of Hawaii, the head of the Hawaii council of churches, a member from the general public to be appointed by the governor and the president of the Hawaii chapter of the national association of social workers. The panel shall submit to the governor the names of not less than three persons, designated as the nominees, for chairman or as a member, for each vacancy. The governor shall appoint, in the manner prescribed by section 26-34, a paroling authority to be known as the Hawaii paroling authority, to consist of three members one of whom shall be designated chairman. Of the members first appointed after the effective date of this Act, the member designated as chairman shall be appointed for a term of four years, one

*Edited accordingly.

member shall be appointed for a term of three years, and one member shall be appointed for a term of two years; thereafter all appointments shall be made for terms of four years, commencing from the date of expiration of the last preceding term. Any vacancy in an unexpired term shall be filled by appointment for the remainder of the unexpired term. Nominees to the authority shall be selected on the basis of their qualifications to make decisions that will be compatible with the welfare of the community and of individual offenders, including their background and ability for appraisal of offenders and the circumstances under which offenses were committed."

SECTION 3. Section 353-62, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 353-62 Hawaii paroling authority; responsibilities and duties; operations; records, reports, staff. (a) In addition to any other responsibility or duty prescribed by law for the Hawaii paroling authority, the paroling authority shall:

- (1) Serve as the central paroling authority for the State;
 - (2) In selecting individuals for parole, consider for parole all committed persons, except in cases where the penalty of life imprisonment not subject to parole has been imposed, regardless of the nature of the offense committed;
 - (3) Determine the time at which parole shall be granted to any eligible individual as that time at which maximum benefits of the correctional institutions to the individual have been reached and the element of risk to the community is minimal;
 - (4) Establish rules of operation to determine conditions of parole applicable to any individual granted parole;
 - (5) Provide continuing custody, control, and supervision of paroled individuals;
 - (6) Revoke or suspend parole and provide for the authorization of return to a correctional institution for any individual who violates parole or any condition of parole;
 - (7) Discharge an individual from parole when supervision is no longer needed;
 - (8) Interpret the parole program to the public in order to develop a broad base of public understanding and support; and
 - (9) Recommend to the legislature sound parole legislation and recommend to the governor sound parole administration.
- (b) In its operations the paroling authority shall:
- (1) Keep and maintain a record of all meetings and proceedings;
 - (2) Send a detailed report of its operations to the governor every three months;
 - (3) In promulgating rules, conform to chapter 91;
 - (4) In all matters act by a majority of its members; and
 - (5) Appoint an administrative secretary and such other clerical and other assistants as may be necessary within the limits of available appropriations, subject to any applicable salary classification and civil service schedules, laws, and rules."

SECTION 4. Section 353-63, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 353-63 Service of Hawaii paroling authority members compensation; expenses. The chairman of the Hawaii paroling authority shall serve on a full-time basis. The other two members shall serve on a part-time basis. The annual salary of the chairman shall be \$37,500. The compensation of each of the members shall be eighty per cent of the hourly wage paid the chairman. All paroling authority members shall receive their necessary expenses for travel and incidentals which shall be paid from appropriations provided the authority for such purposes, on vouchers approved by the director of social services."

SECTION 5. (a) The Hawaii paroling authority provided for in this Act shall succeed to all of the rights and powers exercised, and all of the duties and obligations incurred by the part-time board of paroles and pardons that it replaces in the exercise of the functions transferred. All references in any law, rule, regulation, contract, or document to the part-time board of paroles and pardons in connection with the functions transferred by this Act shall apply to the newly established Hawaii paroling authority established by this Act.

(b) All employees of the former part-time board of paroles and pardons may be transferred to the newly established Hawaii paroling authority established by this Act. No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act. In the event that an office or position held by any employee having tenure is abolished, the employee shall not thereby be separated from public employment but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the employee is eligible under the personnel laws of the State.

(c) All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, and other property heretofore made, used, acquired, or held by the former part-time board of paroles and pardons in the exercise of the functions transferred by this Act shall be transferred to the newly established Hawaii paroling authority established by this Act.

(d) This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

(e) The governor shall, by executive order, after the appointment of the three members of the Hawaii paroling authority, establish the date for the succession of rights and powers, the assumption of all functions, and the transferrals provided by this section and the members of the board of paroles and pardons shall continue to serve until the appointment of all members of the Hawaii paroling authority.

SECTION 6. Section 26-14, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 26-14 Department of social services and housing. The department of social services and housing shall be headed by a single executive to be known as the director of social services.

ACT 92

There shall be within the department of social services and housing a commission to be known as the board of social services which shall sit in an advisory capacity to the director of social services on matters within the jurisdiction of the department of social services and housing. The board shall consist of nine members, one from each senatorial district and three at large, and the director of health as an ex officio nonvoting member.

There shall also be within the department a commission to be known as the board of vocational rehabilitation which shall sit in an advisory capacity to the head of that division charged with the administration of vocational rehabilitation laws and allied services. The board shall consist of eleven members, one from each judicial circuit and four at large, with the directors of health and labor, and the superintendent of education, as ex officio voting members.

The department shall administer programs designed to improve the social well-being and productivity of the people of the State. Without limit to the generality of the foregoing, the department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child and adult welfare, economic assistance (including costs of medical care), rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of adult and juvenile offenders, public housing, and other related programs as provided by law.

The Hawaii housing authority, as now constituted by chapter 356 shall be a constituent corporate unit of the department of social services and housing with the director of social services as an additional commissioner, ex officio, of the housing authority, serving for a term consistent with his appointment. Notwithstanding any other provisions of this chapter, but subject to the administrative control of the director of social services, the functions, duties, and powers of the housing authority, as heretofore provided by law, shall be vested in the Hawaii housing authority.

The Hawaii paroling authority is placed within the department of social services and housing for administrative purposes only.

The functions and authority heretofore exercised by the department of public welfare, the department of institutions (except for Waimano home and the state hospital transferred to the department of health), the boards of prison inspectors, the bureau of sight conservation and work with the blind (except for the transcription services program transferred to the department of education), the council on veterans' affairs, and any other agency of the state or county governments with respect to the assistance and care of the indigent and medically indigent as heretofore constituted are transferred to the department of social services and housing established by this chapter."

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1.00, or so much thereof as may be necessary, for the salary, wages, and expenses of the Hawaii paroling authority members.

SECTION 8. The revisor of statutes shall change the name of "board of paroles and pardons" to "Hawaii paroling authority" wherever found in the Hawaii Revised Statutes, including, but not limited to, sections 26-14, 353-65, 353-66, 353-67, 353-68, 353-69, 353-70, 353-71, 353-72, and also sections 669 and

670, Hawaii Revised Statutes, title 37, Hawaii Penal Code.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 10. This Act shall take effect upon its approval.

(Approved May 13, 1976.)

ACT 93

S.B. NO. 2333-76

A Bill for an Act Relating to Revolving Funds for Correctional Facility Stores.

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

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to read:

"Sec. 353- Revolving funds for correctional facility stores. Subject to the approval of the department of budget and finance, a special revolving fund for each correctional facility store may be established for the purpose of purchasing items to be resold to inmates. All moneys received from the resale of allowable items in correctional facility stores shall be deposited in the revolving fund for each such store. The proceeds of each fund shall be expended at the discretion of the director of social services, but shall be used only for purchasing items to be resold to inmates and for purchasing of other goods or services for inmate benefits and needs."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 13, 1976.)

ACT 94

H.B. NO. 2127-76

A Bill for an Act Relating to Investigations by the Office of Consumer Protection.

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

SECTION 1. Section 487-9, Hawaii Revised Statutes, is amended to read:

"Sec. 487-9 Investigations. The director in the course of his investigations is empowered pursuant to and in accordance with the rules of court to subpoena witnesses, examine them under oath, and require the production of books, papers, documents or objects which he deems relevant or material to the inquiry. Upon application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found

*Edited accordingly.

ACT 95

in the same manner as a subpoena issued by the clerk of a circuit court. The director may conduct hearings in aid of any investigation or inquiry, and may prescribe such forms and promulgate such rules and regulations as may be necessary in the interest of the consumer public."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 13, 1976.)

ACT 95

H.B. NO. 2171-76

A Bill for an Act Relating to the Hawaii Occupational Safety and Health Law.

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

SECTION 1. Section 396-3, Hawaii Revised Statutes, is amended by amending the definition of "Director" and including a definition for "Employee of the State".

"Director" means the director of labor and industrial relations or his designee.

"Employee of the State" includes officers and employees of the department of labor and industrial relations, and persons acting in behalf of the department in an official capacity, whether temporarily or with or without compensation."

SECTION 2. Section 396-2, Hawaii Revised Statutes, is amended to read:

"Sec. 396-2 Findings and purpose. Through years of research and study, Congress has found that the number of industrial accidents that take place in the United States can be reduced if certain minimum standards are established and enforced.

Congress has also found that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments. The overall congressional findings would definitely be applicable to Hawaii. There is a need to assure so far as possible, every working man and woman in the State safe and healthful working conditions. This legislation is also designed to permit and encourage employer and employee efforts to reduce injury and disease arising out of employment, and to stimulate them to institute new programs and to perfect existing programs for providing safe and healthful working environments."

SECTION 3. Section 396-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Administration. The department shall be responsible for ad-

*Edited accordingly.

ministering occupational safety and health standards throughout the State.

- (1) The department shall prescribe and enforce rules and regulations under chapter 91 as may be necessary for carrying out the purposes and provisions of this chapter. The department shall make such reports to the Secretary of Labor in such form and containing such information as the Secretary shall from time to time require pursuant to federal law.
- (2) The department shall adopt, amend, or repeal occupational safety and health standards in the manner prescribed by rules and regulations adopted hereunder. Emergency temporary standards may be promulgated without conforming to chapter 91 and without hearings to take immediate effect upon publication of a notice of such emergency temporary standard in a newspaper of general circulation in the State of Hawaii or upon such other date as may be specified in the notice. An emergency temporary standard may be adopted if the director determines:
 - (A) That employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and
 - (B) That such emergency standard is necessary to protect employees from such danger.Said emergency temporary standard shall be effective until superseded by a standard promulgated in accordance with the procedures set forth in chapter 91, but in any case shall be effective no longer than six months;
- (3) Variances from occupational safety and health standards promulgated under this chapter may be granted upon application of an employer or employers. Application for variances must correspond to procedures set forth in the rules and regulations of this chapter. The director may issue an order for variance if he determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations or processes used or proposed to be used by the employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The employer shall also notify his employees upon each application for variance and said employees shall be given an opportunity to request and participate in hearings or other proceedings relating to applications for variance. No inference of admission of violation of a standard shall be made against the employer by reason of his application for variance;
- (4) The department may, upon the application of any employer or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order. Any person affected by an order may petition the department for an extension of time, which may be granted if the department finds it necessary."

SECTION 4. Section 396-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) Inspection and investigation.

- (1) Authorized representatives of the director shall have the right to enter without delay any place of employment during regular working hours and at other reasonable times;
- (2) The department shall inspect places of employment and machines, devices, apparatus, and equipment for the purpose of insuring adequate protection to the life, safety and health of workers;
- (3) The department shall inspect construction activities for the purpose of protecting the health and safety of employees and the general public. A construction activity includes any activity related to the erection, construction, alteration, demolition or maintenance of buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, underground pipelines or ducts, and any other construction project or facility;
- (4) The department shall inspect, at least semiannually, all mechanically or electrically operated devices considered as major rides and used as amusement rides at a carnival, circus, fair, or amusement park for the purpose of protecting the safety of the general public. This section shall not apply to any coin operated ride or mechanically or electrically operated devices considered or known in the amusement trade as kiddie rides;
- (5) The department may investigate the cause of all industrial injuries resulting in disability or death which occur in any employment, or place of employment, and may make reasonable orders and recommendations with respect to the cause of the injuries;
- (6) The department shall have the right to question privately any employer, owner, operator, agent or employee in investigation, enforcement and inspection activities;
- (7) There shall be a prohibition against advance notice of inspection except that written exception may be expressly authorized by the director in his discretion and pursuant to the rules and regulations promulgated under this chapter. Those inspections requiring advance notice for preparation or for other purposes of inspection as further defined in the rules and regulations promulgated under this chapter shall not be included in the prohibition against advance notice.
- (8) An employee of the State acting within the scope of his office, employment, or authority under this chapter shall not be liable in or made a party to any civil action growing out of the administration or enforcement of this chapter.”

SECTION 5. Section 396-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

“(d) Enforcement.

- (1) Whenever right of entry or inspection is refused to an authorized representative of the director, the department may apply to the circuit court of the circuit where such place of employment exists for a search warrant providing on its face that the willful interference with its lawful execution may be punished as a contempt of court.

- (2) Whenever the department finds that any employment or place of employment or the operation of any machine, device, apparatus, or equipment is not safe, or that any practice, means, method, operation, or process employed or used in connection therewith is unsafe or does not afford adequate protection of the life, safety and health of employees in the employment, the department shall make a citation or an order relative thereto which is necessary to render the employment or place of employment safe and to protect the life and safety of employees therein and deliver the same to the employer. The department may in the citation or order direct that, in the manner and within a time specified, such additions, repairs, improvements, or changes be made and such safety devices and safeguards be furnished, provided and used as are reasonably required to render the employment or place of employment safe. The employer shall obey and observe all citations or safety orders and post said citation or order at or near the place where the violation, referred to in the citation or order, occurred.
- (3) Whenever in the opinion of the department the condition of any employment or place of employment, or the operation of any machine, device, apparatus, or equipment, or any practice, means, method, operation, or process employed or used, is in an unsafe condition or is not properly guarded or is dangerously placed, the use thereof may be prohibited by the department, and a citation or order to that effect shall be posted prominently in the working place. The citation or order shall be removed: (A) when a determination has been made by the department that the place of employment, machine, device, apparatus, or equipment is made safe and the required safeguards or safety devices are provided for; and (B) by an authorized representative of the department.
- (4) Whenever in the opinion of the department the condition of any employment or place of employment, or the operation of any machine, device, apparatus, or equipment, or any practice, means, method, operation, or process employed or used constitutes an imminent hazard to the life or safety of any person, the department may apply to the circuit court of the circuit in which such place of employment, machine, device, apparatus, or equipment is situated or such practice, means, method, operation, or process is employed for an injunction restraining the use or operation thereof until the use or operation is made safe.

The application to the circuit court accompanied by an affidavit showing that the use or operation exists in violation of a standard, rule, regulation, citation or order of the department and constitutes an imminent hazard to the life or safety of any employee, and accompanied by a copy of the standard, rule, regulation, citation or order applicable thereto, shall warrant, in the discretion of the court, the immediate granting of a temporary restraining order. If the department arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure or a representative of said employee may bring an action against the department in the circuit

court of the circuit in which the imminent hazard is alleged to exist for a writ of mandamus to compel the department to seek such an order and for such further relief as may be appropriate. No bond shall be required from the department as a prerequisite to the granting of a restraining order.

- (5) The director and his authorized agents 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 court, and may take depositions and certify to official acts. The circuit court of any circuit upon application by the director 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 of the department. No person shall be excused from attending or testifying or producing material, books, paper, correspondence, memoranda, and other records before the director or in obedience to subpoena 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 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.
- (6) Where a condition or practice in a place of employment could reasonably be expected to cause death or serious physical harm, the department shall have the right, independent of any other enforcement powers under this chapter, to: (A) immediately inform the employees and employers of such hazard by meeting, posted notice, or otherwise; (B) take steps to obtain immediate abatement of the hazard by the employer and where appropriate to initiate necessary legal proceedings to require such abatement.
- (7) The department may prosecute, defend and maintain actions in the name of the department for the enforcement of the provisions of this chapter, including the enforcement of any order issued by it, the appeal of any administrative or court decision, and other actions necessary to enforce this chapter."

SECTION 6. Section 396-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Every employer shall furnish to each of his employees employment and a place of employment which are safe as well as free from recognized hazards. No employer shall require or direct or permit or suffer any employee to go or be in

any employment or place of employment which is not free from recognized hazards that are causing or likely to cause death or serious physical harm to employees or which does not comply with occupational safety and health standards, rules, regulations, citations, or orders made pursuant to this chapter except for the specific purpose of abating said hazard."

SECTION 7. Section 396-8, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) Discharge or discrimination against employee for exercising rights prohibited.

- (1) No employer shall discharge, suspend or otherwise discriminate in terms and conditions of employment against any employee by reason of:
 - (A) His failure or refusal to operate or handle any machine, device, apparatus, or equipment which is in any unsafe condition; or
 - (B) His failure or refusal to engage in unsafe practices in violation of this chapter or of any standard, rule, regulation, citation or order issued under the authority of this chapter; or
 - (C) His failure or refusal to operate or handle any machine, device, apparatus, or equipment in violation of this chapter or of any standard, rule, regulation, citation or order issued under the authority of this chapter; or
 - (D) His filing a complaint, having instituted or causing to be instituted any proceeding under or related to this Act, or his intent to testify in any such proceedings, or otherwise acting to exercise rights under this chapter for himself or others.
- (2) Upon discretion of the director or request, names of complainants may be withheld from the employer.
- (3) Within thirty days of the alleged act of discrimination, the employee shall file a complaint with the department setting forth the circumstances thereof.
- (4) The director shall investigate said complaint and if he finds discrimination in violation of this chapter, he shall order the employer to provide necessary relief to the employee. This relief may include rehiring, reinstatement to former job with back pay and restoration of seniority."

SECTION 8. Section 396-10, Hawaii Revised Statutes, is amended to read:

"Sec. 396-10 Violations and penalties. (a) Any employer who violates this chapter, or any occupational safety and health standard promulgated hereunder or any rule or regulation issued under the authority of this chapter, or who violates or fails to comply with any citation, notice or order made under or by virtue of this chapter or under or by virtue of any rule or regulation of the department, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguards, notice or warning required by this chapter or any rule or regulation of the department may be assessed a civil penalty as specified in this chapter. Each day a violation continues shall constitute a separate violation except that during an abatement

ACT 95

period, penalty may be suspended. Posting violations are also specifically covered by this penalty.

(b) Any employer who has received an order or citation for a serious violation of any standard, rule, or regulation promulgated pursuant to this chapter, shall be assessed a civil penalty of not more than \$1,000 for each such violation.

(c) Any employer who has received an order or citation for a violation of any standard, rule or regulation promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to \$1,000 for each such violation.

(d) Each day a violation continues shall constitute a separate violation except that during an abatement period only, no additional penalty shall be levied against the employer.

(e) Any employer who violates any of the posting requirements, as prescribed under the provisions of this chapter, shall be assessed a civil penalty of up to \$1,000 for each violation.

(f) Any employer who wilfully or repeatedly violates this chapter, any standard, rule, regulation, citation or order issued under the authority of this chapter, shall be assessed a civil penalty of not more than \$10,000 for each violation.

(g) Any employer who willfully or repeatedly violates any standard, rule, regulation, citation or order issued under authority of this chapter and that violation caused death to an employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months or both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year or by both. Failure to correct a violation for which an order or citation of arrest has been issued shall be evidence of willful conduct.

(h) Any employer who has received an order for violation under section 8(e) herein may be assessed a civil penalty of not more than \$1,000 for each violation.

(i) Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the director or his designees shall, upon conviction be punished for not more than six months, or by both.

(j) The director shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(k) For the purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this chapter shall be paid to the department

and may be recovered in a civil action in the name of the department and the State of Hawaii and brought in the district or circuit court for the circuit where the violation is alleged to have occurred or where the employer has its principal office.

(m) Notice of violation. When an alleged violation of any provision of this chapter or any standard, rule, regulation, or order made thereunder has occurred, the department shall promptly issue a written citation, order or notice thereof to the employer who shall be required to post said citation, order or notice. Said citation, order or notice thereof shall include the abatement requirements and within a reasonable time the employer shall be advised of the proposed sanctions, including proposed penalties. Whenever reference is made to posting of any citation, order, notice, petition, decision or any other type of document issued by the director under this chapter and rules and regulations made pursuant to this chapter, the employer shall post copies of the said document at the work site involved or affected and at the place or places where notices to the employees involved are normally posted. Where posting starts the time for notice of action to or for appeal by employees under this chapter and rules and regulations made under this chapter, the document shall be posted by the employer upon receipt or on the next business day following receipt.

(n) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

(o) Criminal offenses committed against any employee of the State acting within the scope of his office, or employment, or authority under this chapter shall be subject to the penalties set forth in the Hawaii Penal Code provided that:

- (1) Ten years shall be added to the maximum term of imprisonment (unless life imprisonment is imposed) and \$10,000 shall be added to the maximum fine imposed for conviction under a Class A felony;
- (2) Five years shall be added to the maximum term of imprisonment and \$5,000 shall be added to the maximum fine imposed for conviction under a Class B felony;
- (3) Three years shall be added to the maximum term of imprisonment and \$1,000 shall be added to the maximum fine for conviction under a Class C felony;
- (4) One year shall be added to the maximum term of imprisonment and \$500 shall be added to the maximum fine for conviction for a misdemeanor;
- (5) The maximum term of imprisonment and maximum fines prescribed for misdemeanors under the Hawaii Penal Code shall apply to convictions for a petty misdemeanor."

SECTION 9. Section 396-11, Hawaii Revised Statutes, is amended to read:

"Sec. 396-11 Review. Any citation, proposed penalty or order of the director shall be final and conclusive against the employer unless the employer files with the director a written notice of contest of the citation, the abatement

ACT 95

period stated in the citation, the proposed penalty, or order within twenty days after receipt of such citation, proposed penalty or order.

The employer may petition the director for modification of the abatement requirements in a citation. The employer shall file said petition no later than the close of the next business day following the date on which abatement is required or under exceptional circumstances and for good cause shown at a later date. The petition for modification may be filed after the twenty day period for contesting the citation has expired where the initial abatement period stated in the citation expires after the twenty day period for filing a notice of contest has run.

The director shall issue an order either affirming or modifying the abatement requirement. The director may issue an order modifying the abatement requirement upon a showing by the employer of a good faith effort to comply with the abatement requirements of a citation and that abatement has not been completed because of factors beyond his reasonable control.

Any employee or representative of employees may file a written notice of contest of the initial abatement period stated in a citation or order within the director alleging that the period of time fixed for abatement is unreasonable, provided such notice is filed within twenty days after the citation or order has been posted. Any employee or representative of employees may also file a written notice of contest of an order granting modification of the abatement period. Such notice shall be filed within ten days of the posting of the order.

Any employee or representative of employees may file a notice of contest of an order of the director denying a complaint of discrimination filed by an employee pursuant to section 396-8(e), provided that in each case such notice is filed within twenty days after the receipt of such order by the employee.

Any employee or representative of employees may file a notice of contest of an order granting an employer's application for a variance under section 396-4(a) (3), provided such notice is filed within twenty days after the posting of a final order or decision of the director.

The director shall advise the appeals board of a notice of contest upon receiving any such notice.

The appeals board shall afford an opportunity for a hearing on any notice of contest. Such hearings before the appeals board shall be de novo except where rules and regulations require a prior formal hearing at the department level, the proceedings of which are required to be transcribed in which case review before the appeals board shall be confined to the record only.

The appeals board may affirm, modify or vacate the citation, the abatement requirement therein, the proposed penalty or order or continue the matter upon such terms and conditions as may be deemed necessary, or remand the case to the director with instructions for further proceedings or direct such other relief as may be appropriate.

The affected employees or representatives of affected employees shall be provided an opportunity to participate as parties to hearings under this section."

SECTION 10. Section 396-12, Hawaii Revised Statutes, is amended to read:

"Sec. 396-12 Judicial review. Except where an order has already become

final for failure to contest, the decision and order of the appeals board shall be final and conclusive unless the director or any party to the proceedings before the appeals board obtains a review thereof in the manner provided in chapter 91 by instituting proceedings in the circuit court of the circuit in which the place of employment, machine, device, apparatus or equipment is situated or such practice, means, method, operation, or process is employed. The hearing on review shall be on the record and the department shall be deemed a party to any such proceedings. The court shall give precedence to such proceedings over all other civil cases.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 12. This Act shall take effect upon its approval.

(Approved May 13, 1976.)

ACT 96

H.B. NO. 2224-76

A Bill for an Act Relating to Audited Statements of Industrial Loan Companies Issuing Investment Certificates or Debentures.

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

SECTION 1. Chapter 408, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 408- Audited statements. Each industrial loan company issuing investment certificates under this chapter or debentures registered under chapter 485, shall at its own expense submit to the bank examiner within ninety days after the close of its books on a fiscal or calendar year, a certified audit of its books and records made by an independent certified public accountant; provided, that the bank examiner may, for good cause shown, grant a reasonable extension of not more than forty-five days for submitting such report.

The audit shall include, among other things, a direct verification of the installment investment certificate accounts, investment certificate accounts and debenture accounts by the independent certified public accountant in accordance with generally accepted accounting principles and practices. The certification made by the independent certified public accountant shall include a statement as to the extent of the verification of the accounts.

If consolidated financial statements are used, there shall also be within the audit separate financial statements for the industrial loan company and for each of its wholly owned subsidiaries.

Failure to comply with this section shall be grounds for the suspension or revocation of the industrial loan license."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

*Edited accordingly.

ACT 97

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

(Approved May 13, 1976.)

ACT 97

H.B. NO. 2230-76

A Bill for an Act Relating to Fees Applicable to Practicing Psychologists.

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

SECTION 1. Section 465-12, Hawaii Revised Statutes, is amended to read:

"Sec. 465-12 Fees; disposition. The fees required by this chapter, none of which is refundable, shall be as follows:

(1) Application fee	\$10
(2) Examination fee	35
(3) Certificate fee	15
(4) Renewal fee	30
(5) Temporary permit fee	15

All fees shall be paid to the director of regulatory agencies and shall be deposited by him with the director of finance to the credit of the general fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 13, 1976.)

ACT 98

H.B. NO. 2231-76

A Bill for an Act Relating to Fees for Certain Professional and Vocational Licenses.

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

SECTION 1. Section 436D-7, Hawaii Revised Statutes, is amended to read:

"Sec. 436-7 Fees and expenses. No applicant shall be examined under this chapter until he has paid to the board of acupuncture a fee of \$60. Every person holding a license under this chapter shall reregister with the board biennially, not later than December 31 of each odd-numbered year, and for such registration shall pay a fee of \$20. Failure to do so shall constitute a forfeiture of license, which may be restored only upon written application therefor and payment to the board of a fee of \$30. All such fees shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund."

*Edited accordingly.

SECTION 2. Section 460J-14, Hawaii Revised Statutes, is amended to read:

"Sec. 460J-14 Fees; biennial renewal. The fee for each original license and renewal prescribed by this chapter shall be \$25 and \$50, respectively.

The biennial renewal fee shall be paid to the board on or before June 30 of each even-numbered year. Failure, neglect, or refusal of any duly licensed operator to pay the biennial renewal fee shall constitute a forfeiture of his license. Any such license may be restored upon written application therefor within one year from such date and the payment of the delinquent fee plus an amount equal to ten per cent thereof.

All fees and other money collected or received under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 13, 1976.)

ACT 99

H.B. NO. 2235-76

A Bill for an Act Relating to Prison Contraband.

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

SECTION 1. Section 710-1022, Hawaii Revised Statutes, is amended to read:

"Sec. 710-1022 Promoting prison contraband in the first degree.

(1) A person commits the offense of promoting prison contraband in the first degree if:

(a) He intentionally conveys a dangerous instrument or drug to any person confined in a correctional or detention facility; or

(b) Being a person confined in a correctional or detention facility, he intentionally makes, obtains, or possesses a dangerous instrument or drug.

(2) A "dangerous instrument" shall have the same meaning as defined in section 707-700(4); a dangerous instrument may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval. A "drug" shall include any of the items listed in sections 712-1240(1)-(3) and (5)-(7); a drug may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval and under medical supervision.

(3) Promoting prison contraband in the first degree is a class B felony."

*Edited accordingly

ACT 100

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 13, 1976.)

ACT 100

H.B. NO. 2891-76

A Bill for an Act Relating to the Service of Hearing Notices by Regulatory Boards and Commissions.

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

SECTION 1. Chapter 91, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 91- Notification of hearing; service.

(a) Unless otherwise provided by law, all parties shall be given written notice of hearing by registered or certified mail with return receipt requested at least fifteen (15) days before the hearing.

(b) Unless otherwise provided by law, if service by registered or certified mail is not made because of the refusal to accept service or the board or its agents have been unable to ascertain the address of the party after reasonable and diligent inquiry, the notice of hearing may be given to the party by publication at least once in each of two successive weeks in a newspaper of general circulation. The last published notice shall appear at least fifteen (15) days prior to the date of the hearing."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 13, 1976.)

ACT 101

H.B. NO. 2892-76

A Bill for an Act Relating to Escrow Depositories.

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

SECTION 1. Section 449-5.5, Hawaii Revised Statutes, is amended to read:

"Sec. 449-5.5 Net capital. The net capital of any corporation engaging in the escrow depository business under this chapter shall not be less than \$50,000. A corporation in lieu of the net capital requirement may alternatively file a bond for \$50,000 conditional upon its satisfactory performance of escrow conditions

*Edited accordingly.

and satisfaction of all escrow liabilities. The amount of the minimum net capital of \$50,000, or the bond, or a combination of both net capital or bond totalling \$50,000 shall be maintained at all times by the licensee.

Licensees in operation on May 24, 1973 pursuant to this chapter with a net capital of less than \$50,000 shall increase its net capital to \$50,000 or file a bond for \$50,000, or take action so that a combination of its net capital and bond totals \$50,000, before May 24, 1978."

SECTION 2. Section 449-13, Hawaii Revised Statutes, is amended to read:

"Sec. 449-13 Cancellation of bonds or insurance; withdrawal of deposits. None of the bonds or insurance or deposits in lieu thereof required by this chapter shall be cancelled or withdrawn as to future accruing liability except upon prior written notice to the bank examiner: sixty days' notice for the bonds or deposits, and thirty days' notice for the insurance. The license of any licensee shall be suspended upon cancellation of any bond or insurance or upon withdrawal of any deposit in lieu thereof."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 13, 1976.)

ACT 102

H.B. NO. 3107-76

A Bill for an Act Relating to Hotel Reservations.

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

SECTION 1. **Findings and purpose.** The Hawaii visitor industry is adversely affected by the occurrence of incidents in which a visitor to Hawaii is denied accommodations in a hotel for which a reservation has been obtained prior to arrival. Such incidents are often an outgrowth of the complex interaction of the methods of operations of the hotel, tour operators, and airlines serving the industry. One means of minimizing such incidents may be the establishment within the department of planning and economic development of a central clearing office, which would assist in placing any overflow of visitors expecting accommodations in a hotel, into another hotel or hotels able to accommodate such overflow.

The purpose of this Act is to authorize the director of planning and economic development to collect hotel occupancy status information from hotels in Hawaii on a periodic basis, in order to ascertain the advisability and feasibility of establishing a central clearing office to monitor hotel reservations.

SECTION 2. **Definitions.** As used in this Act:

(1) "Accommodations" means the provision of a room in a hotel.

*Edited accordingly.

ACT 102

- (2) "Department" means the department of planning and economic development.
- (3) "Director" means the director of planning and economic development.
- (4) "Hotel" means any establishment with one or more properties subject to county license pursuant to Section 445-92, Hawaii Revised Statutes having an aggregation of 100 or more rooms.
- (5) "Hotelkeeper" means any person, firm, or corporation operating a hotel.
- (6) "Occupancy status" of a hotel means the number of hotel rooms reserved or set aside by date for actual occupancy as compared with the number of hotel rooms available for occupancy.
- (7) "Report" means any written information supplied to the director by the hotel or hotelkeeper as authorized under Section 3 of this Act.

SECTION 3. Pilot project established; functions.

(a) There shall be a pilot project for two years within the department of planning and economic development to explore the feasibility of establishing a central clearing office for hotel room reservations in the State.

(b) The director of planning and economic development may require hotelkeepers in the State to furnish to the department a periodic report on the occupancy status of their respective hotels for a period of not more than sixty days and may request it on a continuing basis. The director shall provide the hotelkeeper written notice of a request for occupancy status seven days before the date on which the report is to commence. The director shall not require a report more than once in any seven-day calendar period.

SECTION 4. Technical reservations committee. The director shall appoint a technical reservations committee consisting of not less than three nor more than five persons having personal technical knowledge in hotel reservations practices. The technical reservations committee shall advise and assist the director and his staff in reviewing and interpreting the data contained in the hotel occupancy status reports. The meetings of the technical reservations committee shall be exempt from the provisions of Chapter 92, Hawaii Revised Statutes. The technical reservations committee shall not have any investigative or adjudicative powers.

SECTION 5. Reports confidential. Any report submitted pursuant to Section 3 of this Act shall be kept confidential and shall not constitute public record; provided, that the director may bring to the attention of the hotel or hotels involved any anticipated visitor overflow and may assist in the avoidance or minimization of such overflow.

SECTION 6. Wilful non-compliance by a hotelkeeper with the provisions of this Act shall be subject to a fine imposed by the director of not more than \$300 for each incident of wilful non-compliance.

SECTION 7. The director of planning and economic development shall submit a report to the legislature twenty days before the beginning of the Regular Session of 1978 on the progress and effectiveness of the pilot project established under this Act.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 13, 1976.)

ACT 103

H.B. NO. 3110-76

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Findings and Purpose. The Legislature finds that Hawaii law governing industrial loan companies is not sufficient to prohibit certain practices involving loans and investments, resulting in substantial difficulties for some individual companies and creating undue risks to the depositors who invest their funds in investment certificates of these companies. These difficulties have been brought about by the following practices and circumstances:

- (1) The practice of making excessive loans to parent companies or other affiliates of the industrial loan company. Such loans are often unsecured. These transactions are sometimes motivated and controlled from the borrower's position and thus often involve more risk for the lending loan company than would occur in an arm's length transaction with a third party.
- (2) The recent explosive growth of Hawaii's industrial loan industry (\$104 million in public deposits at the end of 1969, \$412 million on June 30, 1975). This rapid influx of deposits in some institutions has resulted in a series of hasty and sometimes ill-advised decisions.

The Legislature further finds that existing law does not provide controls of sufficient strength to adequately protect depositors. Controls applicable to industrial loan companies have been historically far less strict than those applicable to banks and savings and loan associations although industrial loan companies operate in similar fashion, and many receive very substantial public deposits.

The purpose of this Act is to preserve and protect the interests of depositors in industrial loan companies by: (1) increasing the cash or security reserve; (2) placing limits on affiliate (insider) transactions; (3) placing limits on loans and investments involving a single obligor; (4) requiring collateral for certain loans; (5) placing those responsible for the management of industrial loan companies under increased responsibility to protect the interests of depositors; and (6) empowering the bank examiner to promulgate rules and regulations for the administration of Hawaii's Industrial Loan Company Act.

SECTION 2. Section 408-2, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read:

"Affiliate" means any corporation, partnership, venture, business trust, association, or other similar organization:

- (1) Of which the industrial loan company, directly or indirectly, owns or controls either majority of the voting shares or more than fifty per cent of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors,

trustees, or other persons exercising similar functions; or

- (2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by shareholders of the industrial loan company who own or control either a majority of the shares of such company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or by the trustees for the benefit of the shareholders of any such company; or
- (3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of the industrial loan company; or
- (4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of the industrial loan company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or controls in any manner the election of a majority of the directors of such company, or for the benefit of whose shareholders all or substantially all the capital stock of such company is held by trustees.

"Person" means not only individuals but also partnerships, corporations, firms, associations and federal, state and municipal governments.

"Primary obligor" means a person legally bound to comply with a demand for satisfaction of any security. This definition shall include the maker or endorser of a note, the corporate issuer of stock and the issuer of any security or of any other evidence of indebtedness."

SECTION 3. Section 408-14, Hawaii Revised Statutes, is amended to read:

"Sec. 408-14 Specific powers. Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, 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 comakers, 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, installment contracts, warehouse receipts, or other choses in action, notwithstanding section 416-31 to the contrary;
- (4) To establish branches within the State with the prior written approval of the bank examiner;
- (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into for the purchases; and
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without allowance of interest on the

installments; provided, that nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due to demand.

The certificates shall not be issued by any such company without receiving the prior written approval of the bank examiner, and shall bear upon the face of the instrument the words, "THIS IS NOT A CERTIFICATE OF DEPOSIT."

No industrial loan company shall have outstanding at any time its certificates and/or its debentures registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus; provided, that the bank examiner shall have the authority to limit the ratio of certificates and/or debentures to capital and surplus which may be issued by any industrial loan company if he determines that such lower ratio is necessary in the public interest. In determining the ratio to be permitted, the bank examiner shall consider all relevant circumstances, including, without limitation, the following factors:

- (1) The length of time the company has been in operation.
- (2) Ratio of losses to volume of loans made and contracts purchased.
- (3) The creation and maintenance of adequate reserve for losses.
- (4) Charge-off of uncollectable accounts.
- (5) The amount or growth of undivided profits and/or earned surplus.
- (6) Diversification of character and source of loans made and contracts purchased.
- (7) Creation and maintenance of adequate internal controls.
- (8) Sound and efficient management.

Every industrial loan company shall, as of January 1, 1977, maintain and have on hand at all times a reserve composed of cash and other securities in an amount equal to the sum of five per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more, and after January 1, 1978, maintain and have on hand at all times the above-mentioned reserve in an amount equal to the sum of seven per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more. Said reserve shall not be pledged.

This reserve shall be determined as of a particular date and shall be based upon the daily average of all outstanding certificates and debentures of the immediate preceding seven calendar days. During a succeeding seven calendar day period, the average daily balance of said reserve shall equal or exceed such reserve amount. At the end of the seven calendar day period, a new reserve amount shall be determined based upon the daily average of the immediate preceding seven calendar days and for the next succeeding seven calendar day period, the average daily balance of said reserve shall equal or exceed such new amount. Determination of reserve requirements shall be made on form approved by the bank examiner and shall be computed within two working days after date of determination. Upon any failure to maintain the reserve requirement for the required seven calendar day period, the industrial loan company shall promptly

take action to correct the reserve deficiencies, shall cease making any loans or other advances or extensions of credit until the reserve deficiency is corrected, and shall notify the bank examiner within two working days after the close of the period. The bank examiner may in writing direct specific directors and officers of any industrial loan company in violation of this section to take actions reasonably necessary to increase its reserve so as to comply with this section.

Cash reserves shall be limited to cash in banks and on hand, bank or savings and loan certificates of deposit, direct United States, state or county government securities, and passbook deposits in banks or savings and loans; and such cash reserve shall at all times equal no less than fifty per cent of the aforementioned reserve that is required by this section.

Other securities shall be limited to direct obligations of the United States government, state, or county, bankers acceptances approved by the bank examiner, irrevocable lines of credit in a form acceptable to the bank examiner, and securities listed on the New York stock exchange or the American stock exchange and no more than twenty-five per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange or the American stock exchange."

SECTION 4. Chapter 408, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read:

"Sec. 408- Transactions involving affiliates, officers, directors and certain shareholders; limitations. (a) No industrial loan company that issues certificates as provided for in section 408-14, or has outstanding any debentures registered under chapter 485 shall:

- (1) Invest any of its funds in the capital stock, bonds, debentures, or obligations, other than for secured loans as provided for in paragraphs (3) and (4) of this section, in any of its affiliates if thereby the aggregate amount of all such investments in all affiliates will exceed the following percentages of its paid-up capital and surplus during the calendar years hereafter indicated: ninety-five per cent from July 1, 1977 through December 31, 1977; ninety per cent from January 1, 1978 through December 31, 1978; eighty per cent from January 1, 1979 through December 31, 1979; seventy per cent from January 1, 1980 through December 31, 1980; sixty per cent from January 1, 1981 through December 31, 1981; and fifty per cent from January 1, 1982 through December 31, 1982 and thereafter.
- (2) After the effective date of this section invest any of its funds in any affiliate unless it shall have obtained the prior written approval of the bank examiner. The bank examiner may withhold or refuse any such approval if he finds that the activity engaged in by the affiliate company is substantially unrelated to those activities authorized by section 408-14.
- (3) Make any unsecured or partially secured loan, advance, or extension of credit to any of its affiliates if thereby the aggregate amount of all unsecured or partially secured loans, advances, or extensions to all of its affiliates will exceed five per cent of the paid-up capital and surplus

of the industrial loan company.

- (4) Make any secured loan, advance, or extension of credit, as described in section 408-, to any of its affiliates if thereby the aggregate amount of all such secured loans, advances, or extensions of credit to all affiliates will exceed the following percentages of its paid-up capital and surplus during the calendar years hereafter indicated: ninety-five per cent from July 1, 1977 through December 31, 1977; ninety per cent from January 1, 1978 through December 31, 1978; eighty per cent from January 1, 1979 through December 31, 1979; seventy per cent from January 1, 1980 through December 31, 1980; sixty per cent from January 1, 1981 through December 31, 1981; and fifty per cent from January 1, 1982 through December 31, 1982 and thereafter.
- (5) Accept as collateral the capital stock of itself or of any of its affiliates.
- (6) Without the prior written approval of its board of directors, directly or indirectly, make any loan, advance or extension of credit to, or purchase a contract or chose in action from:
 - (A) A person who is an officer, director, or beneficial owner of ten per cent or more of the shares of the industrial loan company or of any of its affiliates.
 - (B) A person who directly or indirectly acquires such contract through intervening assignments from a person described in (A) hereof, provided, however, that no such prior approval shall be required on any loan made to such persons in (A) and (B) herein which is secured by investment certificates or debentures issued to such persons by the industrial loan company.

(b) All industrial loan companies that issue certificates as provided for in section 408-14, or have outstanding any debenture registered under chapter 485, shall submit to the bank examiner, at his request, an annual financial report, prepared by an independent certified public accountant, for any affiliate to which they have loaned or invested their funds."

SECTION 5. Chapter 408, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read:

"Sec. 408- Loans and investments; limitation on to a single primary obligor. (a) No industrial loan company shall make any unsecured or partially secured loan, advance or extension of credit to any single primary obligor other than to its affiliates as provided in section 408-, if thereby the aggregate amount of the industrial loan company's unsecured or partially secured loans, advances or extensions to such primary obligor will exceed the greater of either \$25,000 or five per cent of the paid-up capital and surplus of the industrial loan company.

(b) No industrial loan company shall make any secured loan, advance or extension of credit as described in section 408-, to any single primary obligor, other than to its affiliates as provided in section 408-, if thereby the aggregate amount of all of the industrial loan company's loans, advances or extensions to such primary obligor including loans, advances or extensions provided for in (a), will exceed fifty per cent of the paid-up capital and surplus of the industrial loan company; provided, however, that such aggregate amount may be increased to

ACT 103

not exceed one hundred per cent of the paid-up capital and surplus of the industrial loan company if all loans made to any such single primary obligor in excess of fifty per cent of the paid-up capital and surplus of the company other than to its affiliates, are secured by mortgages on real property other than unimproved raw land.

(c) No industrial loan company shall in any manner invest in excess of twenty-five per cent of its paid-up capital and surplus in the capital stock, bonds or other obligations of any single primary obligor other than industrial loan company affiliates."

SECTION 6. Chapter 408, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read:

"Sec. 408- Loans; collateral required. (a) No industrial loan company shall either directly or indirectly make any loan, advance or extension of credit which will exceed the greater of \$25,000 or five per cent of the paid-up capital and surplus of the industrial loan company unless such loan, advance or extension is secured by collateral so that the loan, when added together with the outstanding balances of any prior liens, will not exceed ninety-five per cent of the fair market value of the collateral; provided, however, that secured loans, advances or extensions of credit to affiliates shall be secured by collateral so that the loan, when added together with the outstanding balances of any prior liens, will not exceed eighty per cent of the fair market value of the collateral.

- (1) Loans secured by unimproved raw land shall not exceed, when added together with outstanding balances of any prior liens, seventy per cent of the appraised value.
- (2) All real property used as collateral for loans in excess of \$25,000 made under this section shall be appraised by a qualified appraiser before making the loan.

(b) The provisions of this section shall not prevent any industrial loan company from taking additional liens on existing or new collateral of any kind to secure the repayment of debt previously contracted for in good faith when the subsequent liens are necessary to further secure the payment of any debt and to save the company from loss."

SECTION 7. Chapter 408, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read:

"Sec. 408- Liability of officers, directors, shareholders; power of removal in bank examiner. Any officer, director or beneficial owner of more than ten per cent of the outstanding voting stock of an industrial loan company who wilfully makes or participates in making any transaction in violation of this chapter or who knowingly and wilfully approves any such transaction shall be subject to removal from office by the bank examiner after a hearing conducted pursuant to chapter 91. The bank examiner may in addition to or in lieu of removal fine any such officer, director or owner a sum not to exceed \$1,000 for each such transaction."

SECTION 8. Chapter 408, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read:

"Sec. 408- Issuance of certificates to minors. Certificates of industrial loan companies may be issued in the name of a minor in the same manner as to an adult person. The investment represented by the certificate and made by or in the name of any minor shall be held for the exclusive right and benefit of the minor and free from the control or lien of all persons, and shall be paid, together with the interest, if any, thereon, to the minor. The receipt or acquittance of the minor shall be a valid and sufficient release and discharge for the investment or any part thereof, to the company; provided that in case any guardian or trustee is appointed for the minor, any court having jurisdiction may order the investment to be placed under the control of the guardian or trustee. The company shall, upon receipt of a certified copy of the order, pay over or credit to the guardian or trustee all funds held by the minor under the certificate including all interest pertaining thereto. The receipt or acquittance of the guardian or trustee shall be a valid and sufficient release and discharge for the investment, or any part thereof, to the company."

SECTION 9. Chapter 408, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read:

"Sec. 408- Rules and regulations. Subject to chapter 91, the bank examiner may adopt such rules and regulations as he deems necessary for the effective administration and enforcement of this chapter."

SECTION 10. Section 408-20, Hawaii Revised Statutes, is amended to read:

"Sec. 408-20 Other 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 this chapter and shall not split or divide any contract so as to obtain charges in excess of those authorized by this chapter. A licensee shall not sell any loan to another person or company doing business in this State whenever such loan provides by contract for a rate of interest greater than would be permissible under section 478-3 unless such person or company has the right to charge, contract for, receive, collect in advance or recover interest, discount and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408 and such loans are sold without recourse."

SECTION 11. Any industrial loan company which on the effective date of this Act is not in compliance with any of the provisions or requirements set forth herein shall within no more than 180 days so inform the bank examiner and file with him a financial plan for achieving full compliance with this Act. The bank examiner shall review and consider the circumstances of the company and shall by order establish a date by which full compliance shall be achieved, provided that such date shall not in any event be later than December 31, 1978, except as otherwise provided herein.

SECTION 12. Statutory material to be repealed is bracketed. New

ACT 104

material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 13. This Act shall take effect upon its approval.

(Approved May 13, 1976.)

ACT 104

S.B. NO. 2909-76

A Bill for an Act Relating to Historic Preservation.

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

SECTION 1. Purpose. The purpose of this Act is to restate the law replaced by this Act and to amend the Hawaii Revised Statutes by restating the law in a new chapter.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER HISTORIC PRESERVATION”

PART I. HISTORIC PRESERVATION PROGRAM

Sec. -1 Declaration of intent. The Constitution of the State of Hawaii recognizes the value of conserving and developing the historic and cultural property within the State for the public good. The legislature declares that the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage. The legislature further declares that it is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of such property for the education, inspiration, pleasure, and enrichment of its citizens. The legislature further declares that it shall be the public policy of this State to provide leadership in preserving, restoring, and maintaining historic and cultural property, to ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations, and to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic and cultural property.

Sec. -2 Definitions. As used in this chapter:

- (1) “Department” means the department of land and natural resources.
- (2) “Historic property” means any building, structure, object, district, area, or site, including underwater site, that is significant in the history, architecture, archaeology, or culture of this State, its communities or the nation.
- (3) “Historic preservation” means the research, protection, restoration, rehabilitation, and interpretation of buildings, structures, objects,

*Edited accordingly.

districts, areas, and sites, including underwater sites, significant to the history, architecture, archaeology, or culture of this State, its communities, or the nation.

- (4) "Project" means any activity directly undertaken by the State or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, subsidies, loans, or other forms of funding assistance from the State or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the State or its political subdivisions.
- (5) "State historic preservation officer" means that officer appointed by the governor as provided in section -5.

Sec. -3 Historic preservation program. The department shall establish a comprehensive historic preservation program which shall include, but not be limited to the following:

- (1) Development of an on-going program of historical, architectural, and archaeological research and development, including surveys, excavations, scientific recording, interpretation, and publications on the State's historical and cultural resources.
- (2) Acquisition of historic or cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation, devise, or bequest; preservation, restoration, administration, or transference of such property; and the charging of reasonable admissions to such property.
- (3) Development of a statewide survey to identify and document historic property, including all those owned by the State and its political subdivisions.
- (4) Preparation of information for the Hawaii register of historic places and for listing on the national register of historic places.
- (5) Preparation, review, and revisions of a state historic preservation plan, including budget requirements and land use recommendations.
- (6) Application for and receipt of gifts, grants, technical assistance, and other funding from public and private sources for the purposes of this chapter.
- (7) Provision of technical and financial assistance to the political subdivisions of the State, public and private agencies involved in historic preservation activities.
- (8) Coordination of activities of the political subdivisions of the State in accordance with the state plan for historic preservation.
- (9) Stimulation of public interest in historic preservation, including the development and implementation of interpretive programs for historic properties listed on the Hawaii register of historic places.
- (10) Submittal of an annual report to the governor and the legislature detailing the accomplishments of the year and the recommendations for changes in the state plan or future programs relating to historic preservation.
- (11) Employment of sufficient professional and technical staff for the

purpose of this chapter without regard to chapters 76 and 77.

- (12) Promulgation of rules in accordance with chapter 91, necessary to carry out the purposes of this chapter.

Sec. -4 Administration. All state historic areas and buildings surplus to the operations of the department of accounting and general services shall be transferred by executive order to the department, except as provided in section -73. All state projects and programs relating to historic preservation shall come under the authority of the department.

Sec. -5 State historic preservation officer. The governor shall appoint a state historic preservation officer, and may appoint the officer without regard to chapters 76 and 77, who shall be responsible for the comprehensive historic preservation program and who shall be the state liaison officer for the conduct of relations with the federal government and the respective states with regard to matters of historic preservation. The state historic preservation officer shall be appointed on the basis of professional competence and experience in the field of historic preservation and shall be placed in the department for the purposes of the state program.

Sec. -6 Depositories for certain specimens and objects. The department shall serve as or shall determine the depository for all field notes, photographs, negatives, maps, artifacts, or other materials generated or recovered through historic preservation projects supported in whole or in part by the State or taking place on state lands.

Any specimen and object of natural and of botanical, ethnological, architectural, historical, or archaeological value or interest, and any book, treatise, or pamphlet relating thereto in the possession of the University of Hawaii, or any other state agency or its political subdivisions, if and when the same is no longer needed for scientific investigation, for study, or for any other purpose, may, at the request of the Bishop Museum or other qualified museums in this State, be transferred and delivered by and with the consent of such department, bureau, or board having possession thereof, to the Bishop Museum or other qualified museum, or exchanged with such museum, and whereupon, the title shall become vested in such museum and shall be held by them; provided, that the specimens and objects so transferred are made available at all reasonable times by the museum for study and examination by the officials of the university of such department, bureau, or board and to qualified scholars.

Sec. -7 State title to historic property on state lands. The State reserves to itself the exclusive right and privilege of ownership and control over historic property located on lands or under waters owned or controlled by the State. Standards of control over all historic property located on lands owned by the State shall be vested in the department and the department may issue permits for activities relating to the historic property, and may establish restrictions and covenants controlling permitted activities for the purposes of historic preservation.

The State shall not transfer any historic property under its jurisdiction without the concurrence of the department. The State shall retain the rights to, and control over, all historic property located on lands leased to others. In all

cases where property is leased or conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the department may prescribe to accomplish the purposes of historic preservation.

Sec. -8 Review of effect of proposed state projects. (a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced; or, in the event it has already begun, continued, until the department shall have given its written concurrence.

If the concurrence of the department is not obtained within ninety days after the filing of a request with the department, the agency or officer seeking to proceed with such project may apply to the governor who may request the Hawaii advisory council on historic preservation to report or who may take such action as he deems best in overruling or sustaining the department.

(b) The department of Hawaiian home lands prior to any project relating to lands under its jurisdiction, shall consult with the department regarding the effect of any proposed project upon historic property.

(c) The State, its political subdivisions, agencies, and officers shall report to the department the finding of any historic property during any project and shall cooperate with the department in the investigation, recording, preservation, and salvage of such property.

Sec. -9 Investigation, recording, preservation, and salvage; appropriations. Whenever there is any project by any government agency on lands which are owned or controlled by the State or its political subdivisions and which have historic property or value, one per cent of the appropriations for the project or so much thereof as may be necessary, shall be expended for the investigation, recording, preservation, and salvage of such historical property or value. Nothing in this section shall be construed to limit the expenditure of more than one per cent of the project appropriations for the purposes herein stated should an additional amount be necessary and mutually agreed to by the department and the government agency planning the construction or improvement.

Sec. -10 Privately owned historic property. (a) Before any construction, alteration, disposition or improvement of any nature, by, for, or permitted by a private landowner may be commenced which will affect an historic property on the Hawaii register of historic places, the landowner shall notify the department of the construction, alteration, disposition, or improvement of any nature and allow the department opportunity for review of the effect of the proposed construction, alteration, disposition, or improvement of any nature on the historic property. The proposed construction, alteration, disposition, or improvement of any nature shall not be commenced, or in the event it has already begun, continue, until the department shall have given its concurrence or ninety days have elapsed. Within ninety days after notification, the department shall

either commence condemnation proceedings for the purchase of the historic property, permit the owner to proceed with his construction, alteration, or improvement, or undertake or permit the investigation, recording, preservation, and salvage of any historical information deemed necessary to preserve Hawaiian history, by any qualified agency for this purpose.

(b) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any feature in or on an historic property that does not involve a change in design, material, or outer appearance or change in those characteristics which qualified the historic property for entry onto the Hawaii register of historic places.

(c) Any person, natural or corporate, who violates the provisions of this section shall be fined not more than \$1,000, and each day of continued violation shall constitute a distinct and separate offense under this section for which the offender may be punished.

(d) If funds for the acquisition of needed property are not available, the governor may, upon the recommendation of the department allocate from the contingency fund an amount sufficient to acquire an option on the property or for the immediate acquisition, preservation, restoration, or operation of the property.

(e) The department may enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. Whenever any member of the department duly authorized to conduct investigations and surveys of an historic or cultural nature determines that entry onto private lands for examination or survey of historic or cultural finding is required, the department shall give written notice of the finding to the owner or occupant of such property at least five days prior to entry. If entry is refused, the member may make a complaint to the district court in the circuit in which such land is located. The district court may thereupon issue a warrant, directed to any police officer of the circuit, commanding him to take sufficient aid, and, being accompanied by a member of the department, between the hours of sunrise and sunset, allow the member of the department to examine or survey the historic or cultural property.

Sec. -11 Penalties. It shall be unlawful for any person, natural or corporate, to take, appropriate, excavate, injure, destroy, or alter any historic property located upon the private lands of any owner thereof without his written permission being first obtained. It shall be unlawful for any person, natural or corporate, to take, appropriate, excavate, injure, destroy, or alter any historic property located upon lands owned or controlled by the State or any of its political subdivisions except as permitted by the department.

And person who violates this section shall be fined not more than \$1,000, for each separate offense. If the violator directly or indirectly has caused the loss of, or damage to , historic property, the violator shall be fined an additional amount determined by the court to be equivalent to the value of the lost or damaged historic property. Each day of continued violation of this provision shall constitute a distinct and separate offense for which the offender may be punished. Equipment used by a violator for the taking, appropriation, excavation, injury, destruction, or alteration of historic property, or for the

transportation of the violator to or from the historic property, shall be subject to seizure and disposition by the State without compensation to its owner or owners.

Sec. -12 Reproductions, forgeries, and illegal sales. It shall be unlawful to reproduce, retouch, rework, or forge any historic object and to represent it or offer it for trade or sale as an original and genuine object. It shall be unlawful for any person to offer for sale or exchange any historic object with the knowledge that it has been collected or excavated in violation of any of the terms of this chapter. Any person violating this section shall be fined no more than \$1,000. Each object offered for sale or trade in violation of this section shall constitute a distinct and separate offense for which the offender may be punished.

Sec. -13 Enforcement. (a) In addition to, and without limiting the other powers of the attorney general and without altering or waiving any criminal penalty provisions of this chapter, the attorney general shall have the power to bring an action in the name of the State in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter.

(b) Any person may maintain an action in the trial court having jurisdiction where the alleged violation occurred or is likely to occur for restraining orders or injunctive relief against the State, its political subdivisions, or any person upon a showing of irreparable injury, for the protection of a historic property and the public trust therein from unauthorized or improper demolition, alteration, or transfer of such property.

Sec. -14 Preservation activities by political subdivisions. The political subdivisions of this State may engage in a comprehensive program of historic preservation, to promote the use and conservation of historic properties for the education, pleasure, and enrichment of the citizens of this State. The governing body of any political subdivision may establish an historic preservation commission to preserve, promote, and develop the historical resources of the political subdivision.

Sec. -15 Regulations, special conditions or restrictions. In addition to any power or authority of a political subdivision to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing body of any political subdivision may provide by regulations, special conditions, or restrictions for the protection, enhancement, preservation, and use of historic properties. Such regulations, special conditions, and restrictions may include appropriate and reasonable control of the use or appearance of adjacent or associated private property within the public view, or both, historic easements, preventing deterioration by wilful neglect, permitting the modification of local health and building code provisions and transferring development rights.

PART II. MONUMENTS AND MEMORIALS

Sec. -31 Monuments; reservation of land; relinquishment of private claims. Upon the recommendation of the department, the governor may declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands

owned or controlled by the State to be state monuments and may reserve as a part thereof parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the State, and the governor may accept the relinquishment of such tracts in behalf of the State.

Sec. -32 Diamond Head State Monument. There shall be a Diamond Head State Monument as an historical site on Oahu to be administered by the department of land and natural resources and to consist of such lands as the department considers essential to the unimpaired preservation of the visual and historic aspects of Diamond Head and such state lands as may be best used for recreational purposes and to increase public access and enjoyment of the Monument. All state lands within and adjacent to the Monument shall be returned to the department for inclusion within the Monument, except for land upon which is situated a structure in active use for the purposes originally disposed of. The Na Laau Hawaii arboretum and parcels A, B, C and D as described in Executive Order No. 2000 dated April 9, 1962, establishing Diamond Head State Monument, shall be included within the boundaries of Diamond Head State Monument.

Sec. -33 Captain Cook Memorial Fund. All moneys in the Captain Cook memorial fund or which may be paid into the same from the proceeds of sales or which may be received by way of gift or otherwise for any of the purposes provided by this section, the acceptance of such gifts and the receipt of such funds being authorized, shall be expendable by the comptroller from time to time for any of the purposes provided by this section, and any original historical documents or other articles, or copies, facsimiles, or replicas thereof, so collected, and copies of publications made under this section shall be deposited in the archives of Hawaii to constitute a collection to be known as the "Captain Cook Memorial Collection."

The comptroller may purchase or otherwise acquire original books, mementos, pamphlets, documents, or other articles of historical value relating to the life of Captain James Cook, or connected with the history, discovery, and exploration of the Hawaiian Islands, or copies, facsimiles, or replicas thereof of other data relating thereto, and prepare and publish in his discretion books, documents, pamphlets, or other publications relating thereto.

The comptroller may distribute free copies of such publications to libraries, museums, and other places of references open to the public in the United States or in other countries, not to exceed, however, one-third of the number of copies of each published. The remaining copies may be sold at such reasonable prices as may be fixed by the comptroller, the proceeds of such sales to be paid into the trust fund.

Sec. -34 Capitol site. The portion of the "Honolulu Civic Center" adopted by the Honolulu city planning commission on February 23, 1945, as the master plan for the city and county of Honolulu after a public hearing on

February 1, 1945, for the executive-legislative center, specifically that area of Honolulu bounded by Richards, Beretania, Punchbowl, and Hotel streets, for which lands have been acquired and preliminary plans have been designed pursuant to Act 401, Session Laws of Hawaii 1949, is designated as the capitol site for the State.

Sec. -35 Iolani Palace. The official designation of the palace of the former monarchs of Hawaii shall be Iolani Palace.

Sec. -36 Sand Island. The island on the southwest side of Honolulu harbor, Oahu, 21 degrees 18 minutes 30 seconds north, 157 degrees 53 minutes 00 seconds west, city and county of Honolulu, proclaimed Anuenue (also known as Rainbow Island) by memorandum 1969-4 of the governor shall be named Sand Island. The name Sand Island shall be used on all official state maps, documents, and correspondence.

Sec. -37 National statuary hall; Father Damien. The State of Hawaii exercises its prerogative pursuant to section 2 of "An Act making appropriation for sundry Civil Expenses of the Government for the Year ending the Thirtieth of June eighteen hundred and sixty-five and for other Purposes" (Act of July 2, 1864 of the Thirty-Eighth Congress, Section 1814 of the Revised Statutes) and designates the Reverend Joseph Damien deVeuster, SS. CC., as a citizen of Hawaii worthy of commemoration in the national statuary hall.

Sec. -38 National statuary hall; King Kamehameha I. King Kamehameha I is selected as one of the two illustrious, deceased persons whose statue shall be furnished by the State of Hawaii for placement in the national statuary hall in the national capitol pursuant to Title 40 USC 187.

Sec. -39 Jusisdiction over World War II memorial. The jurisdiction and control of the World War II memorial, located in the front of the state office building in Honolulu, is vested in the state department of accounting and general services."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Chapter 6, Hawaii Revised Statutes, is repealed except for the subparts entitled Hawaii Foundation for History and the Humanities (sections 6-16 and 6-16.1 to 16.8) and Pacific War Memorial Commission (sections 6-26 to 6-30).

SECTION 5. This Act shall take effect upon its approval.

(Approved May 13, 1976.)

ACT 106

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

SECTION 1. Chapter 46, part V, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 46- Improvement by assessment; financing. Any county having a charter may enact an ordinance, and may amend the same from time to time, providing for the making and financing of improvement districts in the county, and such improvements may be made and financed under such ordinance. The county may issue and sell bonds to provide funds for such improvements. Bonds issued to provide funds for such improvements may be either bonds when the only security therefor is the properties benefited or improved or the assessments thereon or bonds payable from taxes or secured by the taxing power of the county. If the bonds are secured only by the properties benefited or improved or the assessments thereon, the bonds shall be issued according and subject to the provisions of the ordinance. If the bonds are payable from taxes or secured by the taxing power, the bonds shall be issued according and subject to chapter 47."

SECTION 2. Any special benefit or improvement heretofore undertaken by a county having a charter, any assessments heretofore made by such county, and any bonds issued to provide funds for such benefit or improvement, which were undertaken, made, or issued, as the case may be, pursuant to and in accordance with an ordinance of the county not inconsistent with the provisions added to the Hawaii Revised Statutes by section 1 hereof, and all such ordinances of such counties to the extent the same are not inconsistent with such provisions, are hereby ratified, validated, approved, and confirmed.

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 14, 1976.)

ACT 106

H.B. NO. 2135-76

A Bill for an Act Relating to Elections.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended in the following respects:

(1) By amending Section 11-11 to read:

"Sec. 11-11 Registration. A person who registers as required by law shall be entitled to vote at any election provided that he shall have attained the age of eighteen at the time of that election. The county clerk shall be responsible for voter registration in the respective counties and the keeping of the general register and precinct lists within the county."

(2) By amending Section 11-12 to read:

*Edited accordingly.

"Sec. 11-12 Age; place of registering. Every person who has reached the age of eighteen years or will have reached such age within one year of the date of the next election, and is otherwise qualified to register may do so for that election. He shall then be listed upon the appropriate county general register and precinct list. No person shall register or vote in any precinct than that in which he resides except as provided in section 11-21."

(3) By amending Section 11-14 to read:

"Sec. 11-14 General county register; restrictions in use. (a) The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the name, address, and primary ballot selection data essential for election purposes. Additional information required by section 11-15 may be included in the register at the discretion of the clerk. The voter's name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

(b) In all primary and special primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary or special primary ballot selected by each of the voters at the next preceding primary or special primary election, or the registered change of primary or special primary ballot selection by any voter. Newly registered voters, those who have failed to select a partisan or nonpartisan primary or special primary ballot since the 1968 primary which shall include those who voted in a separate ballot for the board of education only, those who voted for a disqualified party, and those who registered after having their names removed from the register shall have no such information recorded."

(4) By amending Section 11-15 to read:

"Sec. 11-15 Application to register. Any person qualified to and desiring to register as a voter in any county, may present himself at any time during business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) Social Security number;
- (3) Date of birth;
- (4) Residence, including mailing address;
- (5) That the residence stated in the affidavit is not simply because of the person's presence in the State but that the residence was acquired with the intent to make Hawaii the person's legal residence with all the accompanying obligations therein;
- (6) That the person is a citizen.

The applicant shall swear to the truth of the allegations in his application before the clerk, who is authorized to administer oaths. Unless contested by a qualified voter, the clerk may accept as prima facie evidence, the allegation of the applicant in information required in the affidavit in item 5. In any other case

where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant furnish substantiating evidence to the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as a voter, the applicant shall then affix his signature to the affidavit and the clerk shall affix his signature; or the clerk shall enter "Unable to sign" and the reason in the space for the applicant's signature. A voter having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section, provided that no parent, spouse, sibling, or offspring of a candidate, nor the candidate, shall be eligible to serve as a subordinate."

(5) By amending Section 11-17 to read:

"Sec. 11-17 Removal from register upon failure to vote; reregistration. The clerk shall, not later than 4:30 p.m. on the sixtieth day after every general election, remove the name of any registered voter failing to vote at the election if such voter also failed to vote at the preceding primary election, with the exception of those who submit written requests for absentee ballots as provided in section 15-4. For this purpose "to vote" shall mean the depositing of the ballot in the ballot box whether such ballot is blank or later rejected for any reason. In the case of voting machines "to vote" shall mean the voter has activated the proper mechanism and fed his vote into the machine.

Any voter whose name has been removed from the register may at any time prior to the closing of the register, as provided in section 11-24, have his name restored in the register by presenting himself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all such voters shall be reentered in the register."

(6) By amending Section 11-24 to read:

"Sec. 11-24 Closing register; list of voters. At 4:30 p.m. on the thirtieth day prior to each primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), the general county register shall be closed to registration for persons seeking to vote at such a primary, special primary or special election and remain closed to such registration until after the election, subject to change only as provided in sections 11-21, 11-22, 11-25, 11-26, and this section.

Notwithstanding the closing of the register for registration to vote at the primary or special primary election, the register shall remain open for the registration of persons seeking to vote at the general or special general election, until 4:30 p.m. on the thirtieth day prior to the general or special general election (but if such day is on Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), at the end of which period the general

county register shall be closed to registration and remain closed until after the general or special general election next following, subject to change only as provided in sections 11-21, 11-22, 11-25, and 11-26.

Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. In primary and special primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the precinct officials shall post the list at the precinct polling place."

(7) By amending Section 11-95 to read:

"Sec. 11-95 Employees entitled to leave on election day for voting. Any voter shall on the day of the election be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls. Such voter shall not because of so absenting himself be liable to any penalty, nor shall there be any rescheduling of normal hours or any deduction made on account of the absence from his usual salary or wages; provided that the foregoing shall not be applicable to any employee whose hours of employment are such that he has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when he is not working for his employer. If, however, any employee fails to vote after taking time off for that purpose the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of the employee for the period during which the employee is hereunder entitled to absent himself from his employment. Presentation of a voter's receipt by an employee to his employer shall constitute proof of voting by the employee. Any person violating this section shall be guilty of an offense under section 19-8."

(8) By amending Section 11-115 to read:

"Sec. 11-115 Arrangement of names on the ballot. The names of the candidates shall be placed upon the ballot for their respective offices in alphabetical order except as provided in section 11-118 and the limitations of the voting system in use, and except for the case of the candidates for vice president and lieutenant governor in the general election whose names shall be placed immediately below the name of the candidate for president or governor of the same political party.

In elections using the paper ballot or electronic voting systems where the names of the candidates are printed and the voter records his vote on the face of the ballot, the following format shall be used: A horizontal line shall be ruled between each candidate's name and the next name, except between the names of presidential and vice presidential candidates and candidates for governor and lieutenant governor of the same political party in the general election. In such case the horizontal line will follow the name of the candidates for vice president and lieutenant governor of the same political party, thereby grouping the candidates for president and vice president and governor and lieutenant

governor of the same political party within the same pair of horizontal lines. Immediately after all the names, on the right side of the ballot, two vertical lines shall be rules, so that in conjunction with the horizontal lines, a box shall be formed opposite each name and its equivalent, if any. In case of the candidates for president and vice president and governor and lieutenant governor of the same political party, only one box shall be formed opposite their set of names and this box which will be the same size as the others on the ballot shall be centered adjacent to the right side of the rectangle containing the names of the two candidates. The boxes shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner prescribed for the voting system in use. All of the names upon a ballot shall be placed at a uniform distance from the left edge and close thereto, and shall be of uniform size and print subject to section 11-119."

(9) By amending Section 11-119 to read:

"Sec. 11-119 Printing; quantity. The ballots shall be printed by order of the chief election officer or the clerk in the case of county elections. In any state or county election the chief election officer on agreement with the clerk may consolidate the printing contracts for similar types of ballots where such consolidation will result in lower costs.

Based upon clarity and available space, the chief election officer or the clerk in the case of county elections shall determine the type, style and size to be used in printing the ballots.

Each precinct shall receive a sufficient number of ballots based on the number of registered voters and the expected spoilage in the election concerned. A sufficient number of absentee ballots shall be delivered to each clerk not later than 4:30 p.m. on the tenth day prior to the date of any election. Each clerk shall, as soon as may be practical after the election, certify to the chief election officer the actual number of ballots delivered or mailed to absentee voters."

(10) By amending Section 11-184 to read:

"Sec. 11-184 Election expenses and responsibilities in combined State and county elections. Election expenses in elections involving both State and county offices shall be shared as set forth below:

(1) The State shall pay and be responsible for:

- (A) Precinct officials;
- (B) Instruction of precinct officials when initiated or approved by the chief election officer;
- (C) Boards of registration;
- (D) Polling place costs other than supplies: installation rentals, ballot boxes, voting booths, custodians, telephones, and maintenance;
- (E) Other equipment such as ballot transport containers;
- (F) Temporary election employees hired to do strictly State work; and
- (G) Extraordinary voter registration and voter education costs when approved by the chief election officer.

(2) The county shall pay and be responsible for:

- (A) Normal voter registration, voters list maintenance, and all printing

- connected with voter registration, including printing of the voters list:
- (B) Temporary election employees hired to do strictly county work;
 - (C) Maintenance of existing voting machines, including parts, freight, storage, programming, and personnel;
 - (D) Maintenance and storage of voting devices and other equipment; and
 - (E) Employees assigned to conduct absentee polling place functions.
- (3) The remaining election expenses shall be divided in half between the State and the counties. Each county will pay a proration of expenses as a proportion of the registered voters at the time of the general election. These expenses shall include but not be limited to:
- (A) Polling place supplies;
 - (B) All printing, including ballots, but excluding printing connected with voter registration;
 - (C) Temporary election employees not including voting machine programmers doing work for both the State and county;
 - (D) Ballot preparation and packing; and
 - (E) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for the above functions shall be determined by the chief election officer where the responsibility for such functions has not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to paragraphs (1), (2), or (3) above by the chief election officer upon agreement with the clerks or by the legislature."

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended in the following respects:

- (1) By amending Section 12-2 to read:

"Sec. 12-2 Primary held when; candidates only those nominated. The primary shall be held at the polling place for each precinct on the first Saturday of October in every even numbered year.

No person shall be a candidate for any general or special general election unless he has been nominated in the immediately preceding primary or special primary."

- (2) By amending Section 12-6 to read:

"Sec. 12-6 Nomination papers: time for filing; fees. Nomination papers shall be filed as follows:

- (1) For members of Congress, State, and county offices, with the chief election officer or clerk in case of county offices not later than 4:30 p.m. on the forty-fifth day prior to the primary, special primary, or special election (but if such day is a Saturday, Sunday or holiday then not later

than 4:30 p.m. on the first working day immediately preceding); provided that any State candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective clerk. The clerk shall transmit to the office of the chief election officer the State candidate's declaration of candidacy without delay. However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth day prior to the day for holding such primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.

- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary, or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
 - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
 - (B) For mayor—\$50; and
 - (C) For all other offices—\$25.
- (3) Upon the receipt by the chief election officer or the clerk of the nomination paper of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.
- (4) The chief election officer or clerk shall waive the filing fee in the case of a person who declares himself, by affidavit, to be indigent and who has filed a petition signed by at least one-half of one percent of the total voters registered at the time of filing in the respective district or districts which correspond to the specific office for which the indigent person is a candidate. This petition shall be submitted in lieu of nomination papers required by this chapter, provided it be in a form prescribed by the chief election officer containing substantially the same information as required for nomination papers by sections 12-3 and 12-7."

SECTION 3. Section 13-4, Hawaii Revised Statutes, is amended to read:

"Sec. 13-4 Board Members; general election. The names of the candidates in each party and the nonpartisan candidates shall be arranged alphabetically."

SECTION 4. Chapter 15, Hawaii Revised Statutes, is amended in the following respects:

(1) By amending Section 15-1 to read:

"Sec. 15-1 Definitions. As used in this chapter, unless the context otherwise requires:

"Absentee ballot" means a ballot as defined in section 11-1 used in absentee voting.

"Absentee polling place" means an office or other suitable facility designated by the respective clerks for the conduct of absentee voting and the processing of absentee ballots.

"Invalid ballot" means any absentee ballot which does not meet the requirements for a ballot to be counted as listed in section 15-9.

"Voter in a remote area" means any registered voter who resides ten miles or more from his designated polling place by the most direct route for public travel."

(2) By amending Section 15-7 to read:

"Sec. 15-7 Absentee polling place. An absentee polling place shall be established at the office of the respective clerks or a place designated by the clerk under the provisions prescribed in the rules promulgated by the chief election officer. The absentee polling place shall be open before election day to handle the absentee voters who are voting in person."

(3) By amending Section 15-8 to read:

"Sec. 15-8 Absentee ballot container. An absentee ballot container or containers shall be provided in the absentee polling place for the purpose of depositing the reply envelopes and the ballots cast by those who vote in person at the absentee polling place. The container shall be secured in accordance with rules promulgated by the chief election officer.

Tampering with the container or opening it before the time prescribed in section 15-9 shall be an election offense under section 19-6."

(4) By amending Section 15-9 to read:

"Sec. 15-9 Return and receipt of absentee ballots. The reply envelope shall be:

- (1) Mailed and must be received by the clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (2) Delivered other than by mail to the clerk issuing the absentee ballot not later than the closing of the polls on any election day.

Upon receipt of the reply envelope from any person voting under this chapter, the clerk or the officials of the absentee polling place shall time stamp the reply envelope and deposit it in the correct absentee ballot container. On election day the container shall be opened by the officials of the absentee polling place.

Prior to opening the envelopes and counting the ballots, the envelopes shall be checked for the following:

- (1) Signature on the affirmation statement;
- (2) Whether the signature corresponds with the absentee request or register; and
- (3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16.

If any of the above requirements is not met or if the envelope appears to be tampered with, the clerk or the official shall mark across the face of the envelope "invalid" and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.

If an absentee polling place is established at the clerk's office prior to election day, the officials of the absentee polling place shall check the envelopes for the above requirements prior to depositing them in the correct absentee ballot container. All envelopes that have been marked as invalid prior to election day shall be rechecked on election day."

ACT 106

(5) By amending Section 15-10 to read:

"Sec. 15-10 Counting of absentee ballots. If the requirements in section 15-9 are met, the reply envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee polling places using paper ballots, counting of the absentee votes may begin after noon of election day.

In those absentee polling places using the electronic voting system, the absentee ballots shall be transported to the counting center in a manner and by a schedule as provided in the rules promulgated by the chief election officer. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6."

(6) By amending Section 15-13 to read:

"Sec. 15-13 Death of voter prior to opening of polls. Whenever sufficient proof is shown to the clerk that an absentee voter who has returned his reply envelope has died prior to the opening of the polls on the date of election, his ballot shall be deemed invalid and disposed of pursuant to section 11-154. The casting of any such ballot shall not invalidate the election."

SECTION 5. Section 19-6, Hawaii Revised Statutes, is amended to read:

"Sec. 19-6 Misdemeanors. The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or visual aids or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance.
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding

of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.

- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include the following:
 - (A) Any distribution, circulation, carrying, holding, posting, or staking of campaign cards, pamphlets, posters and other literature;
 - (B) The use of public address systems and other public communication media;
 - (C) The use of motor caravans or parades; and
 - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.

- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15.
- (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15.
- (10) Any authorized person found in possession of any voting machine or keys thereof.
- (11) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.
- (12) Any person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and wilfully making oath to any false statement of fact, or wilfully making a false answer to any question put to him thereunder.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 14, 1976.)

*Edited accordingly.

ACT 107

ACT 107

H.B. NO. 2137-76

A Bill for an Act Relating to Expenditure of Public Money and Public Contracts.

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

SECTION 1. Section 103-26, Hawaii Revised Statutes, is amended to read:

"Sec. 103-26 Advertisement for bids. Publication of a call for tenders shall be made not less than three times in a newspaper of general circulation printed and published within the State. No more than one of these publications shall be made on any one day or on two consecutive days."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 14, 1976.)

ACT 108

H.B. NO. 2169-76

A Bill for an Act Relating to Smoking in Public Places.

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

SECTION 1. **Purpose.** Increasing evidence demonstrates the health hazards of smoking, not only to the smoker, but also to the nonsmoker who is required to breathe air contaminated by cigarette, cigar, or pipe smoke. A pervasive intrusion of the nonsmoker's right to unpolluted air space is the uncontrolled smoking in public places. The legislature desires to protect the health, comfort, and atmospheric environment of the nonsmoker by regulating smoking in certain places open to the public.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

"PART —

Sec. 321- Prohibition of smoking. No person shall smoke or carry a lighted cigar, cigarette, pipe or match in any of the following places owned and operated by the State:

- (1) Enclosed meetings or conference rooms where persons gather;
- (2) Elevators, regardless of capacity;
- (3) Enclosed auditoriums or sports arena; or
- (4) Enclosed community centers where persons gather for meetings, parties or any other purposes.

*Edited accordingly.

Sec. 321- Exception. This part shall not apply to any smoking rooms and any other areas that are not enclosed and all other areas where State employees perform normal duties on a daily basis.

Sec. 321- Placard required. All areas where this part applies shall conspicuously display a sign "SMOKING IS PROHIBITED BY LAW."

Sec. 321- Citation. This part shall be enforced by police officers and other persons as may be designated by the director of Health who may issue summons or citations for such violations. The citation shall be in a form adopted or prescribed by the district courts and shall notify the person to appear and answer the charge against him at a certain place and time.

Sec. 321- Ejection. Any police officer may eject from the premises any person to whom a citation has been issued and who continues to smoke after he has been so cited.

Sec. 321- Fine. Any person violating any of the provisions of Sec. 321- shall be guilty of a violation as defined in the Hawaii Penal Code and upon conviction thereof shall be fined a sum no more than \$100."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

(Approved May 14, 1976.)

ACT 109

H.B. NO. 3020-76

A Bill for an Act Relating to School Personnel.

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

SECTION 1. Section 297-9, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 297-9 Probationary period of employment.** Effective September 1, 1965, all teachers, principals, and vice-principals entering the service of the department of education for the first time shall serve as probationary employees of the department for a minimum period of two consecutive years; provided that such consecutive employment may be interrupted by maternity leave, sick leave, or any other leave approved by the department not exceeding a period of three years, or by military leave not exceeding a period of five years, or by termination or nonrenewal of the probationary employment contract because of decrease in the number of pupils or for causes over which the department has no control, the period between employment not to exceed five years, without loss of credit for the period of probationary employment; and provided further that at or prior to the end of two years of probation, the department may extend the probationary period of a teacher, principal, or vice-principal for additional periods not to exceed a total of five years. Any full-time intern teaching period served in the

ACT 110

State shall also be credited toward fulfillment of the probationary period. Any annual contract with any teacher, principal, or vice-principal during this probationary period of employment may or may not be renewed as the department shall determine. The department may, during the probationary period, discharge or demote a teacher, principal, or vice-principal. Teachers, principals and vice-principals who have been in continuous employment in the public schools of Hawaii for a period of two years prior to September 1, 1965, shall be deemed to have completed their probationary period. Teachers, principals, and vice-principals who have entered their probationary period prior to September 1, 1965, but who have completed such probationary period prior to August 31, 1965, shall be given credit for such prior service in computing their probationary period of employment."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval, provided that the provisions added to Section 297-9 under this Act shall be retroactive to September 1, 1975.

(Approved May 14, 1976.)

ACT 110

H.B. NO. 3109-76

A Bill for an Act Relating to Membership on the Board of Acupuncture.

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

SECTION 1. Section 436D-5, Hawaii Revised Statutes, is amended to read:

"Sec. 436D-5 Board of acupuncture; appointment, removal, qualifications. There shall be a board of acupuncture the members of which shall be appointed by the governor in accordance with section 26-34, and the duty of which shall be to examine all applicants for license to practice acupuncture.

The board shall consist of seven persons; two shall be private citizens and five shall be acupuncturists licensed in accordance with this chapter except those acupuncturists first appointed to the board need not be licensed but shall be persons who would qualify for licensing under this chapter. The members of the board shall serve without pay but shall be reimbursed for actual expenses incurred in the discharge of their duties. A majority of the board shall constitute a quorum."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 14, 1976.)

*Edited accordingly.

ACT 111

S.B. NO. 1787-76

A Bill for an Act Relating to Restitution in Cases Filed by the Office of Consumer Protection.

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

SECTION 1. Section 487-14, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 487-14 Restitution. In any civil action brought by the director of the office of consumer protection to collect civil penalties or enjoin unlawful acts or practices, the court hearing the action may include in its orders or judgments such provisions as may be necessary to effect restitution to any person who sustained damages as a result of the unlawful acts and practices which are the subject of the action and who testified in the prosecution of the action. Any person in whose favor restitution is ordered need not accept restitution, but his acceptance and full performance of restitution shall bar recovery by him of any other damages in any action on account of the same acts or practices against the person making restitution."

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

(Approved May 17, 1976.)

ACT 112

S.B. NO. 1801-76

A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations therefor.

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

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective names:

ABUNDO, Manuel A. Jr.	\$ 390.00
Case No. 75-34 (Medical Services)	
ACOBA, Simeon Jr.	100.00
Case No. 74-159 (Attorney for Wayne Aquino Jr.)	
AGMATA, Victor Jr.	150.00
Case No. 74-153 (Attorney for Joann Rasmussen)	
AGMATA, Victor Jr.	50.00
Case No. 75-12 (Attorney for Benjamin Apuya)	
AGMATA, Victor Jr.	70.00
Case No. 75-145 (Attorney for Arden Dela Pena)	
AGSALUD, Basilisa	536.61
Case No. 74-101	
AGSALUD, Radegundis	298.44
Case No. 74-102	

ACT 112

AGUILA, Roque Case No. 75-83	1,812.67
AHIA, Herbert W. Case No. 74-111	392.25
ALEXANDER, Emily Case No. 74-31	2,523.24
ALICUBEN, Pasto F. Case No. 75-113	243.46
ALTMAN, Nancy Case No. 75-6	750.00
ANDERSON, Michael T. Case No. 71-69	4,630.34
APUYA, Benjamin Case No. 75-12	989.44
AQUINO, Wayne Jr. Case No. 74-159	253.57
BARICCHI, Paolo Case No. 75-79	75.00
BARNHILL, Josephine Case No. 74-140	628.40
BARSI, Roberto Case No. 75-78	200.00
BARTEL, Jeanne M. Case No. 75-40	1,630.78
BERUTTI, Isadore Case No. 74-93	225.00
BISHOP, Daniel Case No. 75-96	230.80
BLACKBURN, Rex Case No. 75-119	2,171.71
BOND, Edwin Case No. 75-53	524.02
BRANCO, Dennis A. Case No. 75-21	6,431.07
BRAULT, Roger Case No. 75-150	351.02
BRIDGMAN, Marjorie Ann Case No. 75-31	9,395.00
BRYANT, Vivian Ann Case No. 75-68	600.00
BURGESS, Lloyd L. Case No. 75-16	2,753.97
BUTSON, Gilbert D. Case No. 73-97 (Attorney for Gwendolyn K. Mahoe)	350.00
CABOTAJE, Ricardo Case No. 74-74	2,025.64
CABRAS, Romeo Case No. 74-30	946.15
CAMPBELL, Thomas W. Case No. 73-4	1,280.72
CARAVALLO, Paulette Case No. 74-17	1,963.13
CARLSMITH, CARLSMITH, WICHMANN & CASE Case No. 74-110 (Attorney for Kerry Gruson)	1,000.00
CASTLE MEMORIAL HOSPITAL Case No. 74-15 (Medical Services)	63.23
CASTLE MEMORIAL HOSPITAL Case No. 74-93 (Medical Services)	15.00

CASTLE MEMORIAL HOSPITAL	120.00
Case No. 74-103 (Medical Services)	
CASTLE MEMORIAL HOSPITAL	594.96
Case No. 75-150 (Medical Services)	
CHAN, Moon	200.00
Case No. 75-21 (Attorney for Dennis A. Branco)	
CHOCK-PANG CLINIC INC.	463.84
Case No. 75-49 (Medical Services)	
CHONG, Mamo	2,052.13
Case No. 74-124	
CHUCK, WONG & TONAKI	70.00
Case No. 74-121 (Attorney for Elizabeth Hall)	
CHUN, Gary	200.00
Case No. 75-24	
CHUN, Wah Sung	2,336.11
Case No. 74-136	
CHUNG, Cheryl	1,200.00
Case No. 75-17	
CLARK, Paul Mark	125.00
Case No. 74-151 (Attorney for Christine Randall)	
COLE, Gloria A.	816.00
Case No. 75-157	
CONROY, HAMILTON, GIBSON, NICKELSEN & RUSH	283.19
Case No. 74-105 (Attorney for Charles B. Hassard)	
CORDEIRO, Steven	650.00
Case No. 74-33	
COUZENS, C. Robert	680.50
Case No. 74-128	
CROMAR, Kirk A.	194.72
Case No. 74-128	
CUSHING, Ernest W.	400.00
Case No. 74-60	
DARABIAN, Manouchehr	1,065.20
Case No. 74-137	
DELA PENA, Arden	194.93
Case No. 75-145	
DELCAZO, Olivia	400.00
Case No. 75-35	
DIRKSEN, John R.	350.00
Case No. 74-15	
EGELAND, Mildred L.	386.72
Case No. 73-142	
EICHENLAUB, Christine	9,600.00
Case No. 73-133	
ESTATE OF HELEN MALLORY	9,745.00
Case No. 75-36	
ESTATE OF WILLIAM H. MALLORY	9,745.00
Case No. 75-39	
FARIA, Michael I.	4,917.45
Case No. 74-113	
FASCITELLI, Deborah	50.00
Case No. 75-7	
FELL, Charles	50.00
Case No. 74-6 (Attorney for Charles K. Hassard)	
FERREIRA, Roxanne	246.50
Case No. 74-132	
FINNERIN, Robert	500.00
Case No. 75-156	

ACT 112

FITZSIMMONS, Arthur Jr.	765.52
Case No. 74-58	
FONG, MIHO & ROBINSON	300.00
Case No. 74-164 (Attorney for Corey W. Lee)	
FREITAS, John R.	950.00
Case No. 74-56	
FREITAS, Warren D.	400.00
Case No. 74-57	
FUJIMOTO, Toshi	108.04
Case No. 75-64	
GABATINO, Nestor	657.35
Case No. 74-166	
GANOTISE, Ignacio	465.34
Case No. 75-108	
GARANIA, Ronald A.	8,000.00
Case No. 72-37	
GARNER, Robert H.	100.00
Case No. 75-61	
G N WILCOX MEMORIAL HOSPITAL	36.85
Case No. 75-75 (Medical Services)	
G N WILCOX MEMORIAL HOSPITAL	191.00
Case No. 75-77 (Medical Services)	
G N WILCOX MEMORIAL HOSPITAL	27.20
Case No. 75-78 (Medical Services)	
G N WILCOX MEMORIAL HOSPITAL	67.00
Case No. 75-79 (Medical Services)	
G N WILCOX MEMORIAL HOSPITAL	27.30
Case No. 75-94 (Medical Services)	
GOMES, Lucy C.	400.00
Case No. 75-62	
GONGORA, Roberta	9,745.00
Case No. 72-89	
GORDON, Jerome B.	175.00
Case No. 74-32	
GRAY, Leland T. III	225.00
Case No. 73-135	
GREEN, Charles B.	400.50
Case No. 74-150	
GREGORY, Carolyn	505.00
Case No. 75-55	
GRUSON, Kerry	9,000.00
Case No. 74-110	
HALL, Elizabeth C.	1,315.20
Case No. 74-121	
HASSARD, Charles B.	1,604.76
Case No. 74-105	
HASSARD, Charles K.	200.00
Case No. 74-6	
HAWAII EMERGENCY PHYSICIANS ASSOC.	39.00
Case No. 74-15 (Medical Services)	
HAYASHI, Wesley	39.00
Case No. 74-83 (Medical Services)	
HILO HOSPITAL	393.50
Case No. 75-84 (Medical Services)	
HILO HOSPITAL	161.64
Case No. 75-174 (Medical Services)	
HOLLINGER, Raymond	497.50
Case No. 74-109	

HUNTER, Robert G.	1,081.47
Case No. 75-176	
IBERA, Claudia	9,291.10
Case No. 74-89	
IKEDA, Jonathan T.	1,294.46
Case No. 74-148	
IRITANI, Roy	102.96
Case No. 75-23 (Medical Services)	
JACKSON, Alfred A.	600.00
Case No. 74-86	
JOHNSON, David	106.86
Case No. 71-69 (Medical Services)	
JOHNSON, Gerald	400.00
Case No. 73-133 (Attorney for Christine Eichenlaub)	
JOHNSON, Michael	661.20
Case No. 74-103	
JOHNSTON, James H.	50.96
Case No. 74-103 (Medical Services)	
JUNG, Jack B.	219.82
Case No. 74-149	
JUNG, Mae	218.05
Case No. 74-1	
KAAIHUE, Peter U.	1,394.65
Case No. 74-119	
KACHLIC, Patricia A.	1,200.00
Case No. 74-79	
KAHR, E. Courtney	50.00
Case No. 75-55 (Attorney for Carolyn Gregory)	
KAISER FOUNDATION HOSPITAL	2,157.80
Case No. 73-120 (Medical Services)	
KAISER FOUNDATION HOSPITAL	917.44
Case No. 74-164 (Medical Services)	
KALIMA, Sharon L.	6,571.50
Case No. 75-5	
KANETAKE, Stanley T.	350.00
Case No. 75-31 (Attorney for Majorie Ann Bridgman)	
KAPAKU, Iwalani	1,955.45
Case No. 75-3	
KAWELO, Sylvester Sr.	814.00
Case No. 74-24	
KIM, Dennis M. K.	2,927.35
Case No. 75-123	
KOMINE, Elaine	2,497.94
Case No. 75-167	
KOZAK, Charles	150.00
Case No. 75-32 (Attorney for Marcia Thoel)	
KRAFT, Vicki	50.00
Case No. 75-8	
KROUM, Lucille	430.00
Case No. 75-130	
KUDO, Allison	750.00
Case No. 75-23	
KUKUI MORTUARY LTD.	707.20
Case No. 74-63 (Funeral Services)	
KUSHI, SHIMOKUSU, KUSHI	350.00
Case No. 75-34 (Attorney for Robert G. Ready)	
KUSUNOKI, Jon	2,346.38
Case No. 75-171	

ACT 112

LANCE, Ray C.	1,318.74
Case No. 74-63	
LAU, Flora	1,549.04
Case No. 74-146	
LAWSON, Harold	43.68
Case No. 74-103 (Medical Services)	
LAY, Rosemary A.	1,261.40
Case No. 73-144	
LEDJEFF, George D.	194.50
Case No. 75-63	
LEE, Corey W.	1,397.36
Case No. 74-164	
LEE, Violet W.	744.24
Case No. 74-135	
LEEWARD CLINIC	18.72
Case No. 74-32 (Medical Services)	
LEEWARD CLINIC	20.90
Case No. 74-83 (Medical Services)	
LEEWARD HOSPITAL	89.48
Case No. 74-32 (Medical Services)	
LEEWARD HOSPITAL	11.00
Case No. 74-83 (Medical Services)	
LEMMONS, John R.	75.00
Case No. 75-30	
LICHTER, Rowlin	367.95
Case No. 71-69 (Medical Services)	
LEONARD, Olen Jr.	200.00
Case No. 75-128 (Attorney for Susan Skipper)	
LOMBARD & COMPANY	250.00
Case No. 74-63 (Funeral Services)	
LOO, George W.T.	50.00
Case No. 74-123 (Attorney for Norman Oshiro)	
LYNN, Ross P.	310.77
Case No. 74-165	
MAEDA, Doris K.	62.20
Case No. 75-20	
MAHARRY, James M.	2,324.94
Case No. 74-163	
MAHOE, Gwendolyn K.	8,415.00
Case No. 73-97	
MARTIN, Heinrich	50.00
Case No. 75-11	
MATSUMOTO, Robert	227.50
Case No. 75-123 (Attorney for Dennis M.K. Kim)	
MATTHEWS, Evelyne R.	823.54
Case No. 75-127	
MATTSON, Frances R.	1,160.52
Case No. 74-106	
McCABE, Francis T.	721.84
Case No. 75-115	
McCARTHY, Mor	301.98
Case No. 74-119 (Medical Services)	
McGEHEE, Richard L.	733.46
Case No. 75-118	
MENCHAVEZ, Miguel	987.81
Case No. 74-149	
MILLER, Daniel	220.00
Case No. 73-144 (Attorney for Rosemary Lay)	

MITCHEL, J. A.	316.00
Case No. 75-84 (Medical Services)	
MIYASHIRO, Florence C.	396.34
Case No. 75-104	
MOONEYHAM, Harold J.	580.00
Case No. 73-125	
MOORE, Joan M.	500.00
Case No. 75-52	
MORISHIMA, Arnold M.	495.40
Case No. 74-129	
MORRISON, Richard H.	557.52
Case No. 75-93	
NAKAGAWA, Arthur	140.00
Case No. 74-126 (Attorney for C. Robert Couzens)	
NAKAMURA, Kenneth	250.00
Case No. 75-5 (Attorney for Sharon Kalima)	
NANCE, George H.	502.96
Case No. 75-174	
NEITZEL, Robert L.	507.50
Case No. 74-96	
NEWELL, Thomas E.	796.40
Case No. 75-150	
NG, Clinton H. P.	202.00
Case No. 74-75	
ODA, Francis	894.96
Case No. 74-113 (Medical Services)	
OHTANI, Ronald	473.20
Case No. 74-83 (Medical Services)	
OKUDA, Caesar	2,696.26
Case No. 74-147	
ORTHOPEDIC ASSOCIATES OF HAWAII INC.	87.55
Case No. 75-34 (Medical Services)	
ORTIZ, Larry J.	200.00
Case No. 74-120	
OSHIRO, Hideo	402.68
Case No. 75-29 (Medical Services)	
OSHIRO, Mankichi	5,000.00
Case No. 73-115	
OSHIRO, Norman N.	108.15
Case No. 74-123	
OYADOMARI, Phyllis C.	24.75
Case No. 75-74	
PACARIEM, Rogelio A.	380.00
Case No. 75-98	
PACHECO, Gilbert T.	1,993.59
Case No. 75-19	
PAGAN, James Jr.	2,205.00
Case No. 74-70	
PASTORELLO, Michele	200.00
Case No. 75-75	
PASTORELLO, Vania	300.00
Case No. 75-77	
PASTORELLO, Vanessa	50.00
Case No. 75-76	
PEGG, Jon	95.06
Case No. 71-69 (Medical Services)	
PERREIRA, Wesley	82.23
Case No. 74-158	

ACT 112

PHILLIPS, Michael	608.83
Case No. 75-91	
PICANCO, Herbert C.	6,092.50
Case No. 74-160	
POST, John F.	1,438.00
Case No. 75-71	
QUEEN'S MEDICAL CENTER	408.92
Case No. 71-69 (Medical Services)	
QUEEN'S MEDICAL CENTER	1,080.30
Case No. 74-63 (Medical Services)	
QUEEN'S MEDICAL CENTER	91.25
Case No. 74-109 (Medical Services)	
QUEEN'S MEDICAL CENTER	908.41
Case No. 74-113 (Medical Services)	
QUEEN'S MEDICAL CENTER	26.50
Case No. 75-24 (Medical Services)	
QUEEN'S MEDICAL CENTER	17.50
Case No. 75-30 (Medical Services)	
QUEEN'S MEDICAL CENTER	66.95
Case No. 75-66 (Medical Services)	
QUEEN'S MEDICAL CENTER	491.15
Case No. 75-108 (Medical Services)	
QUEEN'S MEDICAL CENTER	233.02
Case No. 75-115 (Medical Services)	
RAM, Filimon D.	400.00
Case No. 75-84	
RANDALL, Christine A.	275.00
Case No. 74-151	
RANDALL, Thomas C.	350.00
Case No. 75-162	
RASMUSSEN, Joann	1,350.00
Case No. 74-153	
READY, Robert G.	2,602.99
Case No. 75-34	
REECE, Victor G.	10.00
Case No. 73-120	
REIS, Debra A.	200.00
Case No. 74-100	
RING, Thomas M.	380.00
Case No. 75-162	
ROGERS, Michelle L.	188.30
Case No. 74-130	
ROST, Richard L.	200.00
Case No. 75-19 (Attorney for Gilbert T. Pacheco)	
RUDASILL, Lewis	450.00
Case No. 74-83	
RYAN, Joseph	100.00
Case No. 74-93 (Attorney for Isadore Berutti)	
SAKODA, Thomas H.	82.56
Case No. 74-123 (Medical Services)	
SAKODA, Thomas H.	41.60
Case No. 75-34 (Medical Services)	
SANDERS, Howard R.	323.34
Case No. 75-38	
SANDS, James M.	350.00
Case No. 74-62	
SASAKI, Richard S.	70.00
Case No. 75-130 (Attorney for Lucille Kroum)	

SATO, Mitsu	509.97
Case No. 74-154	
SIGLER, Fred C.	250.00
Case No. 74-64	
SILVA, Mabel	1,504.55
Case No. 74-84	
SILVERSTEIN, Bryan P.	347.16
Case No. 75-177	
SIMON, Bienvenido	203.60
Case No. 74-13	
SKIPPER, Susan	1,020.25
Case No. 75-128	
ST. FRANCIS HOSPITAL	160.00
Case No. 74-111 (Medical Services)	
ST. FRANCIS HOSPITAL	1,090.21
Case No. 75-49 (Medical Services)	
SUMMY, Frances M.	1,995.40
Case No. 74-107	
SURVILLA, Sandra L.	1,311.25
Case No. 75-72	
SWEENEY, Patrick	840.00
Case No. 75-66	
TAIRA, Tom	118.00
Case No. 74-113 (Medical Services)	
TAKEO, Chong Cha	1,132.90
Case No. 75-110	
TAKIMURA, Eki	1,660.57
Case No. 74-82	
TERUYA, Thomas H.	24.00
Case No. 75-102 (Medical Services)	
THE EMERGENCY GROUP	26.40
Case No. 74-113 (Medical Services)	
THE EMERGENCY GROUP	35.36
Case No. 75-24 (Medical Services)	
THE EMERGENCY GROUP	24.96
Case No. 75-30 (Medical Services)	
THE EMERGENCY GROUP	52.10
Case No. 75-115 (Medical Services)	
THE RADIOLOGY GROUP	22.36
Case No. 74-15 (Medical Services)	
THE RADIOLOGY GROUP	48.67
Case No. 74-103 (Medical Services)	
THE RADIOLOGY GROUP	53.56
Case No. 75-49 (Medical Services)	
THOELE, Marcia E.	1,000.00
Case No. 75-32	
THOMAS, Joseph A.	300.00
Case No. 75-49	
THOMPSON, William F. III	50.00
Case No. 74-101 (Attorney for Basilisa Agsalud)	
THOMPSON, William F. III	25.00
Case No. 74-102 (Attorney for Radegundis Agsalud)	
TITCOMB, Frederick	75.00
Case No. 74-111 (Attorney for Herbert W. Ahia)	
TOLENTINO, Bernadette	142.22
Case No. 75-59	
TORRES, Ignacio	89.94
Case No. 74-30 (Medical Services)	

ACT 113

TRUJILLO, John P.	225.32
Case No. 75-22	
TURK & KUNIYUKI	70.00
Case No. 75-98 (Attorney for Rogelio Pacarium)	
UNDERBAKKE, Cynthia	182.00
Case No. 75-102	
UYEHARA, Daryl	531.47
Case No. 75-54	
VARGO, Katherine	250.00
Case No. 75-132	
WADE, Richard A.	75.00
Case No. 75-94	
WAHIAWA GENERAL HOSPITAL	408.00
Case No. 75-34 (Medical Services)	
WAVERING, Susan K.	5,454.30
Case No. 75-48	
WILLIAMS, Dakota	100.00
Case No. 75-131	
WINDWARD MEDICAL CENTER	12.52
Case No. 74-15 (Medical Services)	
WINDWARD MEDICAL CENTER	150.01
Case No. 74-119 (Medical Services)	
WONG, Cynthia L.	6,021.57
Case No. 73-118	
WONG, Kingsley	1,780.33
Case No. 74-45	
YOKOYAMA, Walter	64.44
Case No. 74-123 (Medical Services)	
YOUNG, Bruce	2,448.86
Case No. 75-144	
YOUNG, Kam Lun	586.10
Case No. 75-82	

SECTION 2. The sums appropriated in Section 1 of this Act shall be deposited into the criminal injuries compensation fund to be applied to making payments as authorized by the criminal injuries compensation commission.

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

(Approved May 17, 1976.)

ACT 113

S.B. NO. 1998-76

A Bill for an Act Relating to the Status of Convicted Persons.

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

SECTION 1. The legislature finds that a healthy and orderly liquor industry depends to a great extent on the owners of liquor licenses and that the liquor commissions are charged with the responsibility of issuing liquor licenses only to fit and proper persons. The purpose of this Act is to enable the liquor commissions in the State to obtain the criminal information on applicants for liquor licenses necessary for a healthy and orderly liquor industry.

SECTION 2. Section 831-3.1, Hawaii Revised Statutes, is amended as follows:

"Sec. 831-3.1 Prior convictions; criminal records; noncriminal standards.

(a) A person shall not be disqualified from employment by the State or any of its political subdivisions or agencies, or be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is required by the State or any of its political subdivisions or agencies, solely by reason of a prior conviction of a crime; provided that with respect to liquor licenses, this subsection shall not apply to a person who has been convicted of a felony.

(b) The following criminal records shall not be used, distributed, or disseminated by the State or any of its political subdivisions or agencies in connection with an application for any said employment, permit, license, registration, or certificate:

- (1) Records of arrest not followed by a valid conviction;
- (2) Convictions which have been annulled or expunged;
- (3) Convictions of a penal offense for which no jail sentence may be imposed;
- (4) Conviction of a misdemeanor in which the period of twenty years has elapsed since date of conviction and during which elapsed time there has not been any subsequent arrest or conviction.

Except as provided in paragraphs (1) to (4), the State or any of its political subdivisions or agencies may consider as a possible justification for the refusal, suspension, or revocation of any employment or of any permit, license, registration, or certificate, any conviction of a penal offense when such offense directly relates (i) to the applicant's possible performance in the job applied for, or (ii) to the employee's possible performance in the job which he holds, or (iii) to the applicant's or holder's possible performance in the occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is applied for or held.

For the purpose of this subsection, such refusal, suspension, or revocation may occur only when the agency determines, after investigation in accordance with chapter 91, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust; provided that discharge from probation or parole supervision, or a period of two years after final discharge or release from any term of imprisonment, without subsequent criminal conviction, shall be deemed rebuttable prima facie evidence of sufficient rehabilitation.

(c) When considering noncriminal standards such as good moral character, temperate habits, habitual intemperate use of intoxicants, trustworthiness, and the like, in the granting, renewal, suspension, or revocation of any employment or any such permit, license, registration, or certificate the agency shall not take into consideration the conviction of any crime except as provided by subsection (b). Nothing in this section shall be construed to otherwise affect a proceeding before any agency which does not involve the conviction of a crime.

(d) This section shall prevail over any other law which purports to govern the denial or issuance of any permit, license, registration, or certificate by the

ACT 114

State or any of its political subdivisions or agencies."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 4. This Act shall take effect upon its approval and shall apply to all liquor license applications pending upon the effective date of this Act.

(Approved May 17, 1976.)

ACT 114

S.B. NO. 2224-76

A Bill for an Act Relating to Motor Vehicle Accident Reparations.

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

SECTION 1. Section 294-13, Hawaii Revised Statutes, is amended by amending subsection (k) to read as follows:

"(k) Notwithstanding any other law to the contrary, no insurer shall agree, combine, or conspire with any other private insurer or enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control, or maintain, directly or indirectly, motor vehicle insurance rates. Any violation of this section shall subject the insurer and each of its officers and employees involved to the penalties of chapter 480 without benefit of any exemption otherwise permitted by section 480-11. This subsection shall not apply to advisory organizations referred to in section 431-700 which are not involved in rate making under this chapter."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 17, 1976.)

ACT 115

S.B. NO. 2797-76

A Bill for an Act Relating to Improvements at Waikiki, Oahu.

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

SECTION 1. Findings and purpose. This bill extends the lapsing date on state appropriations for Waikiki improvements and thereby permits the expenditure of the funds through June 30, 1977. The appropriation would otherwise lapse as of June 30, 1976 under the provisions of section 14 of Act 197, Session Laws of Hawaii 1971.

The legislature finds that the Waikiki improvements are a special case deserving of this limited extension. The improvement of the Waikiki area is

*Edited accordingly.

generally recognized as being of immediate importance to the tourism industry and the economy of the State as a whole. The impasse between the State and the city and county which delayed the expenditure of these funds appears to be resolved, and the additional year should be sufficient to encumber the remaining funds.

SECTION 2. Any other provision of law to the contrary notwithstanding, the appropriation for item 67 in section 2, part I, subsection K of Act 197, Session Laws of Hawaii 1971, as amended, shall lapse as of June 30, 1977 if unencumbered as of that date.

SECTION 3. This Act shall take effect on June 1, 1976.

(Approved May 17, 1976.)

ACT 116

H.B. NO. 2151-76

A Bill for an Act Relating to the Expungement of Arrest Records.

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

SECTION 1. Section 731-3.2,[†] Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The attorney general, or his duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with, but not convicted of, a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not issue (1) in the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture, (2) for a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture; and (3) in the case of an arrest of any person for any offense where conviction has not been obtained because he has rendered prosecution impossible by absenting himself from the jurisdiction.

Any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with his arrest. The attorney general or his duly authorized representative within the department of the attorney general, within 60 days after receipt of such written application, shall, when so requested, deliver, or cause to be delivered, all such fingerprints or photographs of such person, unless such person has a prior record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records."

SECTION 2. Section 731-3.2,[†] Hawaii Revised Statutes, is further amended by amending subsection (c) to read:

"(c) Upon the issuance of the expungement order, all records pertaining to

[†]Renumbered by Revisor as 831-3.2.

ACT 117

the arrest which are in the custody or control of any law enforcement agency of the State or any county government, and which are capable of being forwarded to the attorney general without affecting other records not pertaining to the arrest, shall be so forwarded for placement of the records in a confidential file or, if the records are on magnetic tape or in a computer memory bank, shall be erased."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 17, 1976.)

ACT 117

H.B. NO. 2159-76

A Bill for an Act Relating to Petty Cash Funds.

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

SECTION 1. Section 40-84, Hawaii Revised Statutes, is amended to read:

"Sec. 40-84 Petty cash funds; regulations. Whenever the head of any state department, board, bureau, commission, or other agency deems it necessary to have a petty cash fund for the proper transaction of the business of his agency, he shall make written application therefor to the comptroller setting forth the details covering the purposes and uses of and for the fund. The comptroller, before issuing a State warrant for such purpose, shall determine whether or not the business of such agency warrants the establishment of such a fund, and if he is satisfied that such fund is necessary, he shall issue a State warrant to such agency for such amount as he shall determine, not to exceed, however, the sum of \$5,000, except that this limitation of \$5,000 shall not apply to the University of Hawaii and the stadium authority.

The comptroller may prescribe such rules and regulations as he may deem necessary for the proper administration and accountability of these funds."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 17, 1976.)

ACT 118

H.B. NO. 2160-76

A Bill for an Act Relating to Stadiums and Amending Chapter 109, Hawaii Revised Statutes.

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

*Edited accordingly.

SECTION 1. Chapter 109, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 109- Security personnel, powers. The person employed as the chief security officer by the authority shall have all of the powers of police officers, including the power of arrest; provided that such powers shall remain in force and in effect only while he is in the actual performance of his duties at the stadium."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 17, 1976.)

ACT 119

H.B. NO. 2161-76

A Bill for an Act Relating to State Bonds.

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

SECTION 1. Chapter 39, Hawaii Revised Statutes, is amended by adding the following new part to be appropriately designated and to read:

"PART . GENERAL PROVISIONS

Sec. 39- Delegation. With the approval of the governor, the director of finance may delegate the signing of bonds to the deputy director of finance."

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

(Approved May 17, 1976.)

ACT 120

H.B. NO. 2167-76

A Bill for an Act Relating to the Sanitation and Reclamation Expert under Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 224 of the Hawaiian Homes Commission Act, 1920, is amended to read:

"Sec. 224 Sanitation and reclamation expert. The Secretary of the Interior shall designate from his Department someone experienced in sanitation, rehabilitation, and reclamation work to reside in the State and cooperate with the department in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the department while he is carrying on his duties in the State."

SECTION 2. Statutory material to be repealed is bracketed. In printing

*Edited accordingly.

ACT 121

this Act, the revisor of statutes need not include the brackets, or the bracketed material.*

SECTION 3. This Act shall take effect upon approval.

(Approved May 17, 1976.)

ACT 121

H.B. NO. 2220-76

A Bill for an Act Relating to the Hawaii Capital Loan Program.

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

SECTION 1. Section 210-6, Hawaii Revised Statutes, is amended to read:

"Sec. 210-6 Direct loans, terms, and restrictions. The department of planning and economic development may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of planning and economic development.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$50,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at the rate of seven and one half per cent a year.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 17, 1976.)

*Edited accordingly.

ACT 122

H.B. NO. 2227-76

A Bill for an Act Relating to the Motor Carrier Law.

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

SECTION 1. Section 271-36, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Every motor vehicle operated by a motor carrier or a private carrier of property as provided in section 271-9(a) shall display at all times the safety identification decal or emblem issued every year by the public utilities commission to identify each of the motor vehicles belonging to motor carriers currently complying with the requirements of section 271-9(a). The motor carrier or private carrier of property shall pay the commission for each safety identification decal or emblem, for each of its motor vehicles, the fee of \$1.50 at the time the carrier submits its vehicle for the issuance to it of the decal or emblem it needs for that calendar year or the portion thereof remaining. Any substitution or transfer of the decal or emblem shall be unlawful. The motor carrier or private carrier of property shall further pay for each safety inspection of each motor vehicle, as required by the commission’s rules and regulations, the fee of \$7 for each motor vehicle. No other safety identification or inspection fee shall be collected by the State or any political subdivision thereof for any other safety inspection of the motor vehicle.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 17, 1976.)

ACT 123

H.B. NO. 2246-76

A Bill for an Act Relating to Exemption of the Campus Center Special Fund, University of Hawaii.

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

SECTION 1. Section 36-27, Hawaii Revised Statutes, is amended to read:

“Sec. 36-27 Transfers from special funds for central service expenses. Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the school cafeteria special funds of the community colleges, the department of education and the university laboratory school and the special funds of the student housing,

*Edited accordingly.

ACT 124

summer session, the division of continuing education and community service, campus center, and the bookstores of the University of Hawaii, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers."

SECTION 2. Section 36-30, Hawaii Revised Statutes, is amended to read:

"Sec. 36-30 Special fund reimbursements for departmental administrative expenses. Each special fund, except the school cafeteria special funds of the community colleges, the department of education and the university laboratory school and the special funds of the student housing, summer session, the division of continuing education and community service, campus center, and the bookstores of the University of Hawaii, shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned. Administrative expenses shall include, but shall not be limited to, salaries, maintenance of buildings and grounds, utilities, and general office expenses. The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund bear to the total expenditures of the department; provided, that in determining the amount to be charged to each special fund for its pro rata share, credit shall be given for any administrative expenses paid from the special fund concerned and such other adjustments shall be made as may be necessary to achieve an equitable apportionment. The director of finance may determine the amount to be charged to each special fund, and may cause the amounts to be transferred to the general funds as reimbursements."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 17, 1976.)

ACT 124

H.B. NO. 2375-76

A Bill for an Act Relating to the Director of Regulatory Agencies as Consumer Advocate before the Public Utilities Commission and Making an Appropriation therefor.

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

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding a new part, to be appropriately designated, and to read as follows:

*Edited accordingly.

“PART . CONSUMER ADVOCATE

Sec. 269- Consumer advocate; director of regulatory agencies. The director of regulatory agencies shall be the consumer advocate in hearings before the public utilities commission. He shall represent, protect, and advance the interest of consumers of utility services. The consumer advocate shall not receive any salary in addition to his salary as director of regulatory agencies.

The responsibility for advocating the interests of the consumer of utility services shall be separate and distinct from the responsibilities of the public utilities commission and those assistants employed by the commission. As consumer advocate, the director of regulatory agencies shall have full rights to participate as a party in interest in all proceedings before the public utilities commission.

Sec. 269- Public utilities division; personnel. There shall be a public utilities division within the department of regulatory agencies to provide administrative support to the director of regulatory agencies acting in his capacity as consumer advocate. The director may employ and at pleasure dismiss an executive administrator, who shall be exempt from chapters 76 and 77, and define his powers and duties and fix his compensation. The director may employ such engineers, accountants, investigators, clerks, stenographers, and other assistants as may be necessary for the performance of the consumer advocate's functions, subject to chapters 76 and 77.

Sec. 269- Legal counsel. The attorney general and his deputies shall act as attorneys for the consumer advocate.

Sec. 269- General powers; duties. (a) The consumer advocate shall have the authority expressly conferred upon him by or reasonably implied from the provisions of this part.

(b) The consumer advocate may:

- (1) Adopt rules pursuant to chapter 91 necessary to effectuate the purposes of this part.
 - (2) Conduct investigations to secure information useful in lawful administration of any provision of this part.
 - (3) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of the consumer in the public utilities field.
 - (4) Study the operation of laws affecting consumers of utility services and recommend to the governor and the legislature new laws and amendments of laws in the consumers' interest in the public utilities field.
 - (5) Organize and hold conferences on problems affecting consumers of utility services.
 - (6) Perform such other acts as may be incidental to the exercise of the functions, powers, and duties set forth in this section.
 - (7) Represent the interests of consumers of utility services before any state or federal agency or instrumentality having jurisdiction over matters which affect those interests.
- (c) Whenever it appears to the consumer advocate that any public utility

ACT 125

has: (1) violated or failed to comply with any provision of this part or of any state or federal law; or (2) failed to comply with any rule, regulation, or other requirement of the public utilities commission or of any other state or federal agency; or (3) failed to comply with any provision of its charter or franchise; or (4) that changes, additions, extensions, or repairs to the plant or service of any utility are necessary to meet the reasonable convenience or necessity of the public; or (5) that any rates, fares, classifications, charges, or rules of any public utility are unreasonable or unreasonably discriminatory, he may institute proceedings for appropriate relief before the public utilities commission. The consumer advocate may appeal any final decision and order in any proceeding to which he is a party in the manner provided by law.

(d) The consumer advocate may file with the commission and serve on any public utility a request in writing to furnish any information reasonably relevant to any matter or proceeding before the commission or reasonably required by the consumer advocate to perform his duties hereunder. Any such request shall set forth with reasonable specificity the purpose for which the information is requested and shall designate with reasonable specificity the information desired. The public utility shall comply with such request within the time limit set forth by the consumer advocate unless within ten days following service it requests a hearing on the matter before the public utilities commission and states its reasons therefor. If a hearing is requested, the public utilities commission shall proceed to hold the hearing and make its determination on the request within 30 days after the same is filed. The consumer advocate or the public utility may appeal to the supreme court the decision of the commission on any such request. Subject to the foregoing, such requests may ask the public utility to: (1) furnish any information with which the director may require concerning the condition, operations, practices, or services of the public utility; (2) produce and permit the consumer advocate or his representative to inspect and copy any designated documents (including writings, drawing, graphs, charts, photographs, recordings, and other data compilations from which information can be obtained), or to inspect and copy, test, or sample any designated tangible thing which is in the possession, custody, or control of the public utility; or (3) to permit entry upon land or other property in the possession or control of the utility for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object thereon.

Sec. 269- Handling of complaints. The consumer advocate shall provide a central clearing house of information by collecting and compiling all consumer complaints and inquiries concerning public utilities and shall monitor the handling of consumer complaints by the public utilities commission."

SECTION 2. This Act shall take effect on June 1, 1976.

(Approved May 17, 1976.)

ACT 125

H.B. NO. 2718-76

A Bill for an Act Relating to Capital Improvement Projects for the Department of Hawaiian Home Lands Authorized under Various Acts.

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

SECTION 1. Items G.8 and G.9 of section 1, Act 187, Session Laws of Hawaii 1970, are amended to read:

“8. Anahola and Moloaa Farmlots, Kauai—Plans and construction of roads, domestic water and irrigation system necessary for development of 20 or more farmlots.	50,000
9. Kekaha Houselots, Kauai—Plans and construction of roads, water and other utilities necessary for the development of 25 or more lots.”	90,000

SECTION 2. Items F-2, F-3, F-6, F-7, F-8, and F-9 of section 4, Part III, Act 68, Session Laws of Hawaii 1971, are amended to read:

	FY 1971-1972	FY 1972-1973	Total Biennium FY 1971-1973
“2. Nanakuli, Oahu. To put in roads, curbings, water and electrical lines for incremental development of 430 or more new residence lots. To provide loan fund capitalization for construction of 112 or more houses.			
Design	50	—	50
Construction	830	250	1,080
Total Funding	850(g) 30(s)	250(g) —	1,100(g) 30(s)”
“3. Panaewa, Hawaii. To build roads, install utilities and survey and stake out for incremental development of 120 or more residence lots at Panaewa, Hawaii. To provide loan Fund capitalization for construction loans for 23 or more homes.			
Design	25	—	25
Construction	295	—	295
Total Funding	310(g) 10(s)	—	310(g) 10(s)”
“6. Waianae, Oahu. To build roads and curbings, install utilities and survey and stake out for incremental development of 307 or more residence lots at Waianae, Oahu. To provide Loan Fund capitalization for construction loans for 107 or more houses.			
Design	—	55	55
Construction	—	1,749	1,749
Total Funding	—	1,764(g) 40(s)	1,764(g) 40(s)”
“7. Waimanalo, Oahu. To put in roads, curbings, water and electrical lines for incremental development of 80 or more additional residential lots, and to provide loans for home construction.			
Construction	—	263	263
Total Funding	—	263(g)	263(g)”

ACT 125

"8. Kuhio Village, South Kohala, Hawaii. To build roads and curbings, install utilities and survey and stake out for 40 or more residence lots at Kuhio Village, Hawaii and to provide loan capitalization for construction loans for 15 or more houses.

Design	—	30	30
Construction	—	553	553
Total Funding	—	573(g) 10(s)	573(g) 10(s)"

"9. Puukapu, South Kohala, Hawaii. To build roads and install utilities and survey and stake out 9 or more farm lots at Puukapu, Hawaii.

Design	—	15	15
Construction	—	165	165
Total Funding	—	180(g)	180(g)"

SECTION 3. Item IV F.1 of section 2, Act 197, Session Laws of Hawaii 1971, is amended to read:

- “1. Anahola Subdivision, Kawaihau--
Research and planning for comprehensive and incremental development of the Anahola project area.”

SECTION 4. Items F-2, F-3, F-4 and F-5, of section 72, Part IV, Act 218, Session Laws of Hawaii 1973, as added by Act 218, SLH 1974, are amended to read:

Item No.	Program	Org.	No.	Program No.		APPROPRIATIONS					
				Exp. Agy.	FY 1973-1974	C D E	FY 1974-1975	C D E	Total Biennium	C D E	
"2	Nanakuli Subdivision 320 or more Units. Nanakuli, Oahu to put in roads, curbings, water and electrical lines for 430 or more residence lots. To provide loan fund capitalization for construction of 320 or more homes.	H20									
	Design								256	256	
	Construction								2,304	2,304	
	Total Funding							C	2,560C	2,560C	
"3	Panaewa Subdivision 40 or more Units, Hawaii.	H21									
	To put in roads, curbings, water, electrical lines for 40 or more units at Panaewa, Hawaii to provide a loan capitalization for construction of 40 or more units.										
	Design								32	32	
	Construction								288	288	
	Total Funding							C	320C	320C	
"4	Waianae Subdivision 380 or more Units. Waianae, Oahu to build roads and curbings, install utilities, water tank and stake out for incremental development of 530 or more residence lots at Waianae, Oahu.	H23									
	Design								352	352	
	Construction								3,170	3,170	
	Total Funding							C	3,522C	3,522C	
"5	Waimanalo Project Home Construction Loans.	H24									
	Waimanalo, Oahu—To put in roads, curbings, water and electrical lines for 160 or more residence lots to provide loan fund capitalization for construction of 160 or more units.										
	Design								128	128	
	Construction								1,152	1,152	
	Total Funding							C	1,208C	1,208C	

SECTION 5. Items F-1, F-2, and F-4 of section 88, Part IV, Act 195, Session Laws of Hawaii 1975, are amended to read:

Item No.	Program and Capital Project	Program ID		APPROPRIATIONS (\$1,000's)						
		Cap. Proj. No.	Org. No.	FY 1975-1976		FY 1976-1977		Total Biennium 1975-1977		C D E
				FY 1975 E	FY 1976 E	FY 1976 E	FY 1977 E			
"1	Various Subdivisions (Addition); at Nanakuli Oahu, Molokai and Waimea, Hawaii Subdivisions to put in roads, curbings, water and electrical lines for incremental development of 430 or more residence lots. To provide loan fund capitalization and interim financing for construction of 112 or more homes in Nanakuli, 40 or more homes in Molokai, and 41 or more homes in Waimea, Hawaii.									
	Construction						6,032		6,032	
	Total Funding						6,032C	C	6,032C	
"2	Various Subdivisions (Addition); at Waianae, Oahu, Anahola, Kauai and Kekaha, Kauai, Sub-divisions to build roads and curbings, install utilities and stake out for incremental development of 307 or more residence lots at Waianae, Oahu. To provide loan capitalization and interim financing for construction loans for 107 or more homes in Waianae, 70 or more homes in Anahola, and 30 or more homes in Kekaha.									
	Construction						6,745		6,745	
	Total Funding						6,745C	C	6,745C	
"4	Nanakuli Road Improvements To improve and upgrade Mano, Kauwahi, Kawao, Pililaau and Haleakala Avenues to city and county standards approximately 9400 linear feet of roadway improvement, including sewers.	H29								
	Design						129		129	
	Construction						1,165		1,165	
	Total Funding						1,294C	C	1,294C	

SECTION 6. Item F-8 of section 72, Part IV, Act 218, Session Laws of Hawaii 1974, is amended to read:

Item No.	Program	Org.	Exp. Agy.	Program No.		APPROPRIATIONS					
				No.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E	
"8	Drainage Facilities at Paukukalo Area. To provide for the extension of drainage facilities and land acquisition from within the Paukukalo Hawaiian Homes land to the ocean to conform with the requirements of the County of Maui.	H28									
	Design										25
	Construction										225
	Total Funding						C				250C
											250C

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 17, 1976.)

ACT 126

ACT 126

H.B. NO. 2722-76

A Bill for an Act Relating to the Hawaii Employment Security Law.

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

SECTION 1. Section 383-98(d), Hawaii Revised Statutes, is amended to read:

“(d) In accordance with section 383-91(b), the director may appoint one or more substitute referees to serve (1) during any temporary absence of a referee from his duties, (2) in the event a referee is disqualified to hear any appeal, (3) in the event of vacancy in the office of referee, or (4) if, for any reason, the director finds that the services of substitute referees are necessary for prompt and expeditious handling of appeals. Any substitute referee, while so serving, shall have all the powers and duties of a referee and shall receive compensation for his services at the daily rate provided at step G of the salary range of full time referees under the classified service for each day's actual attendance upon his duties and shall also be paid such reasonable traveling and other expenses as may be incurred in the discharge of his duties, the compensation and expenses to be paid out of the employment security administration fund. Substitute referees shall not be entitled to longevity step increases. In case any appeal shall be referred to a substitute referee for hearing, the substitute referee shall retain jurisdiction of the appeal so referred to him, notwithstanding that the regular referee may become available unless the reference of the appeal to the substitute referee shall be revoked by the director. The final decisions of a referee and the principles of law declared by him in arriving at such decisions, unless expressly or impliedly overruled by a later decision of a court of competent jurisdiction or of a referee, shall be binding upon any substitute referee in proceedings which involve similar questions of law.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 17, 1976.)

ACT 127

H.B. NO. 2782-76

A Bill for an Act Relating to Campaign Contributions and Expenditures.

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

SECTION 1. Subpart B, Election Campaign Contributions and Expenditures, of chapter 11, part XII, Hawaii Revised Statutes, is amended in the following respects:

(a) Section 11-191, Hawaii Revised Statutes, is amended to read as follows:

*Edited accordingly.

"Sec. 11-191 Definitions. When used in this subpart:

- (1) "Advertisement" means:
- (A) Any communication exclusive of bumper stickers or other sundry items paid for by or on behalf of a candidate which identifies a candidate directly or by implication or which advocates or supports the nomination for election, or election, of the candidate or advocates or supports his defeat; and
 - (B) Any communication exclusive of bumper stickers or other sundry items paid for by or on behalf of a committee which identifies an issue or question which appears or is reasonably certain to appear on the ballot at the next applicable election or which advocates or supports the passage or defeat of the question or issue.
- (2) "Campaign treasurer" means a person appointed under section 11-198, and, unless expressly indicated otherwise, includes deputy campaign treasurers.
- (3) "Candidate" means an individual who seeks nomination for election, or election, to office. An individual is a candidate if he does any of the following:
- (A) Files nomination papers for an office for himself with the county clerk's office or with the chief election officer's office, whichever is applicable; or
 - (B) Receives contributions in an aggregate amount of more than \$100, or makes or incurs any expenditure to bring about his nomination for election, or election, to office provided that in no event shall a person be deemed a candidate by reason of the provisions set forth in subparagraphs (B) and (C) of this paragraph prior to January 1 of the year that person runs for election; or
 - (C) Gives his consent for any other person to receive contributions or make expenditures to aid his nomination for election, or election, to office.
- (4) "Commission" means the campaign spending commission.
- (5) "Committee" means:
- (A) Any person who accepts a contribution or makes an expenditure for or against any candidate, person seeking nomination for election, or election, to office, or party, with or without the authorization of the candidate, person, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election;
 - (B) Any person who raises or holds money or anything of value and who subsequently contributes the money or thing of value to, or makes expenditures in behalf of a candidate, person, or party; provided that the term "committee" shall not include any person making a contribution or expenditure of his own funds or thing of value, which he originally acquired for his own use and not for the purpose of evading any provision of this subpart;

(6) "Contribution" means:

- (A) A gift, subscription, loan, advance, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to testimonial or fund raising affairs, for the purpose of:
 - (i) Influencing the nomination for election, or election, of any person to office; or
 - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
 - (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
- (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in clause (i), (ii), or (iii) in paragraph (A) above; or
- (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding subparagraphs (A), (B), and (C) of this paragraph, the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
- (D) Notwithstanding the above, a candidate's expenditure of his own funds in the pursuit of his campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.

(7) "Election" means any election for office or for determining a question or issue provided by law or ordinance.

(8) "Expenditure" means:

- (A) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a non-monetary contribution for the purpose of:
 - (i) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed his nomination papers; or
 - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
 - (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
- (B) The payment, by any other person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for any of the purposes mentioned in clause (i), (ii), or (iii) of this paragraph; or

- (C) The expenditure by a candidate of his own funds for the purposes set out in clauses (i), (ii), and (iii) above.
 - (9) "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.
 - (10) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.
 - (11) "Office" means any elective public or constitutional office excluding federal elective offices.
 - (12) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees."
- (b) Section 11-192, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-192 Campaign spending commission. There is established a campaign spending commission, consisting of five members appointed by the governor as follows:

The judicial council shall select a panel of ten persons, consisting of five persons from the membership of each of the two political parties for which the greatest number of voters cast party ballots in the last preceding primary election. From this panel the governor shall appoint two members from each political party and a chairman. Any vacancies in the commission shall be filled by the governor with a member from the panel or by reappointment of a member whose term has expired, subject to the limit on length of service imposed by section 26-34; provided the replacement member is from the same political party as the member being replaced; and provided further that the party is then one of the two political parties as determined above; otherwise, the replacement member shall be from one of the two parties not represented on the commission.

The judicial council shall meet and expeditiously select additional persons for the panel whenever the number of the eligible panel members falls below five, or whenever a political party, being one of the two parties for which the greatest number of voters cast party ballots in the last primary election, is not represented. In either event, the judicial council shall select additional panel members so that there will be five from each of the two parties. A person shall no longer remain eligible to be on the panel when he is not from one of the two parties for which the greater number of voters cast party ballots in the last preceding primary election. The requirement of being from the same party is not applicable to the replacement chairman.

Notwithstanding section 26-34, these appointments shall not be subject to senatorial confirmation. The term of the members shall be four years, except that the terms of the initial members shall be two years for two members, three years for two other members, and four years for the chairman.

The members of the commission shall serve without compensation but they shall be reimbursed for reasonable expenses, including travel expenses, incurred in the discharge of their duties. For administrative purposes the commission shall be in the office of the lieutenant governor."

- (c) Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-194 Duties of the chief election officer; commission. (a) The chief election officer's principal duty is to regulate the election process, and under this subpart his duties are:

- (1) To develop and adopt reporting forms required by this subpart;
- (2) To adopt and publish a manual for all candidates and committees, describing the requirements of this subpart B, including uniform and simple methods of recordkeeping;
- (3) To preserve all reports required by this subpart for at least five years from the date of receipt;
- (4) To permit the inspection, copying, or duplicating of any report required by this subpart pursuant to rules adopted by the commission; provided that no information or copies from the reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

(b) The commission's principal duty is to supervise campaign contributions and expenditures, and under this subpart its duties are:

- (1) To ascertain whether any candidate, committee, or party has failed to file a report required by this subpart or has filed a substantially defective or deficient report, and to notify the persons that their failure to file or filing of a substantially defective or deficient report must be corrected and explained, the correction or explanation to be submitted in writing to the commission within a reasonable time after the notification of the failure to file or deficiency. The commission shall make available a list of candidates, committees, and parties who have failed to correct their deficiency within the time allowed by the commission. Failure to respond to the notification shall constitute a violation of this subpart.
 - (2) To hold public hearings;
 - (3) To investigate and hold hearings for receiving evidence of any violations;
 - (4) To adopt a code of fair campaign practices;
 - (5) To establish rules pursuant to chapter 91;
 - (6) To request the initiation of prosecution for the violation of this subpart pursuant to section 11-213;
 - (7) To suggest accounting methods for candidates, parties, and committees, as the commission may deem advisable, in connection with reports and records required by this subpart; and
 - (8) To employ or contract, without regard to chapters 76 and 77 and section 103-3, and, at pleasure, to dismiss persons it finds necessary for the performance of its functions and to fix their compensation."
- (d) Section 11-195, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-195 Filing of reports, generally. (a) All reports required to be filed under this subpart by a candidate or committees supporting a candidate with his consent shall be certified by the candidate. All reports required to be filed under this subpart by a party or committee which supports more than one candidate shall be certified by the party or committee treasurer, or the deputy treasurer, or the chairman thereof, in that order. All reports required to be filed shall be open

for public inspection.

(b) All reports required by this subpart shall be filed as follows: The original and one copy shall be filed at the commission office. In the case of counties having less than 100,000 voters, the filing shall be accomplished by filing an original and two copies of the required report with either the commission or the clerk of the county in which the candidate resides. The clerk shall then immediately mail the necessary copies to the commission by certified mail.

(c) The commission or county clerk shall give each person filing a report a receipt showing the type of report and date and time of filing.

(d) The reports filed with the county clerk's office shall be preserved by that office for five years.

(e) All reports required to be filed shall at all times be available to the chief election officer."

(e) Section 11-197, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-197 Organizational reports. (a) The organizational report shall include:

- (1) The name, address, office sought when known, and party affiliation of each candidate or individual whom the committee or party is supporting and the name and address of the committee or party;
- (2) The names and addresses of the designated campaign treasurer and deputies;
- (3) The names and addresses of the campaign chairman and deputy campaign chairman;
- (4) A list of all banks, safety deposit boxes, or other depositories used and the applicable account number;
- (5) The amount and date of deposit of the contribution and the name and address of each individual donor who has contributed an aggregate amount of more than \$100 since the last election applicable to the office being sought or in which the issue or question was on the ballot; provided that this paragraph shall not apply to contributions made prior to January 1, 1974; and
- (6) In the case of a report by a committee or party supporting or opposing a ballot question or issue, all of the information described in paragraphs (2) to (5) and a description of the question or issue.

(b) Any change in information submitted in the organizational report, other than paragraph (5) above, shall be reported not later than 4:30 p.m. on the tenth calendar day after the change or when the candidate, committee, party, or campaign treasurer becomes aware of the change."

(f) Section 11-199, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-199 Campaign contributions, generally. (a) All monetary contributions shall be promptly deposited in a financial depository duly authorized to do business in the State of Hawaii, such as a bank, savings and loan institution, industrial loan company, or similar financial institution, in the name of the candidate, committee, or party, whichever is applicable.

(b) Each candidate, committee, or party shall establish and maintain an itemized record showing the amount of each monetary contribution, the

description and value of each nonmonetary contribution, and the name and address of each donor making a contribution of more than \$10 in value.

(c) Each candidate and campaign treasurer shall report the amount and date of deposit of each contribution and the name and address of each donor who makes a contribution or contributions whose aggregate value is more than \$100.

(d) No candidate, committee, or party may accept a contribution of more than \$250 in cash from a single person without issuing a receipt to the donor and keeping a record of the transaction.

(e) Each committee and party shall disclose the original source of all earmarked funds, the ultimate recipient of the earmarked funds, and the fact that the funds are earmarked.

(f) For the purposes of this section, "earmarked funds" means contributions received by a committee or party on the condition that the funds be contributed to or expended only on certain candidates, issues, or questions."

(g) Section 11-200, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-200 Campaign contributions, restrictions against transfer. (a) A candidate, campaign treasurer, or committee shall not receive any contributions or receive or make any transfer of money or anything of value:

(1) For any purpose other than those directly related:

- (A) In the case of the candidate, to his own campaign, or
- (B) In the case of a campaign treasurer or committee, to the campaign of the candidate, question, or issue with which they are directly associated; or

(2) To support the campaigns of candidates other than the candidate, for whom the funds were collected or with whom the campaign treasurer or committee is directly associated; or

(3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or committee is directly associated;

Provided that a candidate, campaign treasurer, or committee may as a contribution purchase from its campaign fund not more than two tickets for each testimonial or fund raising affair as defined in section 11-203 of this subpart held by another candidate, committee, or party.

(b) This section shall not be construed to prohibit a party from supporting more than one candidate."

(h) Section 11-203, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-203 Testimonial affairs. (a) As used in this section "testimonial affair" means any function held for the benefit of a person and designed to raise funds for political purposes for which the total cost for attending the affair is more than \$25 per person.

(b) No person or committee directly associated with the person shall hold more than one testimonial affair until after an election in which that person was either elected or defeated unless that person seeks election to statewide office, in which case he or his directly associated committee may hold not more than one testimonial affair in each county. An additional testimonial affair may be held within six months after a general, special general, or special election, in the case of a candidate or committee directly associated with that person having a deficit.

No testimonial affair may be held unless a notice of intent to hold the affair is filed by the person in charge of the affair with the commission prior to the date of the affair setting forth the name and address of the person in charge, the charge per person, the date, hour, and place of the affair, and whether contributions will be solicited at the affair and method thereof. Testimonial affairs sponsored by a party for a political purpose for the general benefit of the party are exempt from the limits of this subsection."

- (i) Section 11-203.1, Hawaii Revised Statutes, is repealed.
- (j) Section 11-204, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-204 Campaign expenditures, generally. (a) A candidate may draw on the campaign treasurer for his political expenditures for postage, telegrams, telephone calls, stationery, expressage, travel, meals, and lodging. The candidate shall make a detailed accounting of his political expenditures and the accounting shall be made a part of the reports required in sections 11-207 and 11-208. The account shall state the amount and purpose of the expenditures and other information required by the commission and shall be signed and certified by the campaign treasurer.

(b) No funds shall be withdrawn or paid from a campaign depository except upon the written authorization of the campaign treasurer.

(c) No expenditure for a candidate shall be made or incurred by any committee controlled by a candidate without specific written authorization of the candidate or his authorized representative.

(d) For the purposes of this subpart, an expenditure shall be deemed to be made or incurred when the services are rendered or the product is delivered. Services rendered or products delivered for use during a reporting period covered by this subpart shall be deemed delivered or rendered during the period or periods of use, provided that these expenditures may be reasonably allocated between periods in accordance with the time the services or products are actually used."

- (k) Section 11-206, Hawaii Revised Statutes, is repealed.
- (l) Section 11-208, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-208 Final and supplemental reports. (a) Each candidate whether or not successful in a primary or special primary election, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final primary report with the commission on forms provided by the commission not later than 4:30 p.m. on the twentieth day after the primary or special primary election certified pursuant to section 11-195. The report shall include:

- (1) A statement of the total contributions received;
- (2) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) A statement of the current balance on hand or deficit.

(b) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final general report with the

commission on forms provided by the commission not later than 4:30 p.m. on the twentieth day after a general, special general, or special election certified pursuant to section 11-195 and reporting all items prescribed in subsection (a). A candidate who is unsuccessful in a primary or special primary election need not file a final general report.

(c) Deficit. In the event of a deficit, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every three months until the deficit is eliminated, file supplemental reports reporting all items prescribed in subsection (a). The first report shall be due not later than 4:30 p.m. on the fifth day after the last day of the election year.

(d) Surplus. In the event of a surplus, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until he becomes a candidate again, file supplemental reports reporting all items prescribed in subsection (a).

The first report shall be due not later than 4:30 p.m. on the fifth day after the last day of the election year.

(e) A candidate, party, or committee who receives no contributions or makes no expenditures shall nevertheless file preliminary, final, and supplemental reports as required by law."

(m) Section 11-210, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-210 Advertising. (a) All advertisements shall contain the name and address of the candidate, committee, party, or person paying for same.

(b) In addition to subsection (a) above, no person shall cause or submit any advertisement in support for a candidate or against a candidate's opponent, to be published, broadcast, televised or otherwise circulated and distributed except under the following conditions:

- (1) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated with the approval and authority of the candidate, provided that in the event that the literature or advertisement is paid for by a candidate or committee directly associated with a candidate, the notice of approval and authority need not be included; or
- (2) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated without the approval and authority of the candidate."

SECTION 2. Severability. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the provision to other persons and circumstances shall not be affected thereby and further, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on approval.

(Approved May 17, 1976.)

ACT 128

H.B. NO. 3099-76

A Bill for an Act Relating to the Intake Service Center Advisory Board.

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

SECTION 1. Section 353-1.3, Hawaii Revised Statutes, is amended to read:

"Sec. 353-1.3 Creation of intake service center advisory board. There shall be an intake service center advisory board, hereinafter called the board. The board shall consist of fifteen members who shall be appointed by the governor for a term ending on the day that the governor completes his term in office, but who shall continue to serve on the board until their successors are appointed. Three members each shall be selected from the judiciary and among private social service agencies. Two members each shall be selected from the department of social services and housing, the department of health, from among the police departments of the counties, from among the prosecuting attorneys of the counties, and the remaining member shall be the public defender. A vacancy occurring in the membership shall be filled for the unexpired term thereof. The board shall select its chairman from one of its appointed members. The members shall receive no compensation for their services on the board, but shall be reimbursed for actual expenses incurred in the performance of their duties.

The board shall advise and recommend to the governor policies, directions, priorities, and procedures for the operation of intake service centers, conduct at periodic intervals a review of the performance of intake service centers, and shall nominate and submit to the governor the names of one or more qualified candidates for each vacant intake service center director and executive director position from which the governor shall appoint one."

SECTION 2. Section 353-1.4, Hawaii Revised Statutes, is amended to read:

"Sec. 353-1.4 Creation of intake service center. (a) There shall be an intake service center for each of the counties, each of which shall be directed and managed by a director appointed by the governor pursuant to section 353-1.3 without regard to chapters 76 and 77, but who shall meet qualifications for the position determined by the department of personnel services. The director of the Oahu intake service center shall be the over-all state executive director of all the intake service centers and shall manage, control and direct them and provide periodic reports not less than annually on their operations to the governor and the intake service center advisory board. Any center may be integrated with and operated concurrently with a community correctional center.

*Edited accordingly.

ACT 129

(b) It shall:

- (1) Provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;
 - (2) Provide short-term residential detention for persons awaiting judicial disposition who have not been conditionally released;
 - (3) Provide such other personal and correctional services as needed;
 - (4) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;
 - (5) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;
 - (6) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs.
- (c) It may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or utilize contractual professional services."

SECTION 3. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect on July 1, 1976.

(Approved May 17, 1976.)

ACT 129

S.B. NO. 525

A Bill for an Act Relating to Cancer Control.

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

SECTION 1. Chapter 328, Hawaii Revised Statutes, is amended by adding a new subsection to section 328-6, to read as follows:

"() Wilfully and falsely representing or using any devices, substances, methods or treatment as effective in the diagnosis, cure, mitigation, treatment, or alleviation of cancer.

*Edited accordingly.

The provisions of this section shall not apply to any person who depends exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization, nor to a practitioner thereof."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 19, 1976.)

ACT 130

S.B. NO. 2709-76

A Bill for an Act Relating to Mental Health.

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

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended as follows: (1) By amending the definition of "mentally ill person" and "person habituated to the excessive use of drugs or alcohol" to read:

"Mentally ill person" means a person having psychiatric disorder or other disease which substantially impairs his mental health and necessitates treatment or supervision.

"Person suffering from substance abuse" means a person who uses narcotic, stimulant, depressant, or hallucinogenic drugs or alcohol to an extent which interferes with his personal, social, family, or economic life."

(2) By adding new definitions to be appropriately inserted and to read:

"Court" means any duly constituted court and includes proceedings, hearings of per diem judges as authorized by law.

"Dangerous to others" means likely to do substantial physical or emotional injury on another, as evidenced by a recent act, attempt or threat.

"Dangerous to self" means likely to do substantial physical injury to one's self, as evidenced by a recent act, attempt or threat to injure one's self physically or by neglect or refusal to take necessary care for one's own physical health and safety together with incompetence to determine whether treatment for mental illness or substance abuse is appropriate.

"Dangerous to property," in the context of an emergency admission, means inflicting, attempting or threatening imminently to inflict damage to any property in a manner which constitutes a crime, as evidenced by a recent act, attempt or threat.

"Guardian" means a guardian of person or of property as provided in Article V, Uniform Probate Code.

"Incapacitated person" is as provided in Article V, Uniform Probate Code.

"Interested person" means an interested, responsible adult, including but not limited to a public official, the legal guardian, spouse, parent, legal counsel, adult child, or next of kin of a person allegedly mentally ill, mentally deficient or

*Edited accordingly.

suffering from substance abuse or as otherwise provided in Article I, Uniform Probate Code.

“Judge” means any judge of the family court or per diem judge appointed by the chief justice as provided in section

“Mental health” means a state of social, psychological, and physical well-being, with capacity to function effectively in a variety of social roles.

“Protected person” is as described in Article V, Uniform Probate Code.

“Special treatment facility” means a public or private facility which provides a therapeutic residential program for care, diagnosis, treatment or rehabilitation services for emotionally distressed persons, mentally ill persons or persons suffering from substance abuse.

“Treatment” means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, career counseling, and other special services which may be extended to handicapped persons.

SECTION 2. Section 334-24, Hawaii Revised Statutes, is amended to read:

“Sec. 334-24 Admission; discharge; civil liability. No person shall be admitted to, detained at, or discharged from any psychiatric facility except as provided in this chapter and in chapters 571, 704 and 706.

SECTION 3. Section 334-33, Hawaii Revised Statutes, is repealed.

SECTION 4. Part IV, Chapter 334, Hawaii Revised Statutes, is repealed and a new part IV is enacted to read:

“PART IV. ADMISSION TO PSYCHIATRIC FACILITY

Sec. 334- Emergency examination and hospitalization. (a) Initiation of proceeding. An emergency admission may be initiated as follows:

- (1) A police officer may take into protective custody and transport to any facility designated by the director any person whom he has probable cause to believe is committing an offense due to apparent mental illness or substance abuse and appears to be imminently dangerous to property, to self or to others. The officer shall make application for the examination, observation and diagnosis of the person in protective custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into protective custody and the reasons therefor which shall be transmitted with the person to some physician at the facility.
- (2) Upon application of any licensed physician, attorney, member of the clergy, licensed health or social service professional or any state or county employee in the course of his employment, a judge may issue an ex parte order orally, or in writing, within forty-eight hours of the application stating that there is probable cause to believe a person is mentally ill or suffering from substance abuse and is imminently dangerous to self, to others, or to property and in need of care and/or

treatment, giving the findings on which the conclusion is based and directing that a police officer or other suitable individual take the person into custody and deliver him to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record.

(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician without unnecessary delay, and may be given such treatment as is indicated by good medical practice.

(c) Release from emergency examination. If the physician who performs the emergency examination concludes that the patient need not be hospitalized, the patient shall be discharged immediately unless the patient is under criminal charges, in which case he shall be returned to the custody of a law enforcement officer.

(d) Emergency hospitalization. If the physician who performs the emergency examination has reason to believe that the patient is (1) mentally ill or suffering from substance abuse, and (2) is imminently dangerous to self, to others, or to property, and (3) is in need of care and/or treatment, the physician may hospitalize him on an emergency basis or may call the judge for an order authorizing hospitalization for emergency treatment and/or care, if the physician decides to administer such emergency treatment and/or care, which order shall later be reduced to writing. The patient shall have the right immediately upon admission to telephone his guardian or a member of his family or an adult friend and his attorney. If the patient declines to exercise his right, the staff of the facility shall make reasonable efforts to ensure that the patient's guardian or family is notified of the emergency admission. The patient shall be allowed to confer with his attorney in private.

(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the responsible physician concludes that the patient no longer meets the criteria for emergency hospitalization the physician shall discharge him. If an order authorizing emergency hospitalization has been issued, the physician shall first call the judge to request an order authorizing discharge, which shall later be reduced to writing. If the patient is under criminal charges, he shall be returned to the custody of a law enforcement officer. In any event, the patient must be released within forty-eight hours of his admission, unless the patient voluntarily agrees to further hospitalization, or a proceeding for court-ordered evaluation and/or hospitalization is initiated as provided in section 334- (a) (b) (2). If that time expires on a Saturday, Sunday or holiday, the time for initiation is extended to noon of the next court day. Upon initiation of the proceedings the facility shall be authorized to detain the patient until further order of the court.

Sec. 334- Admission for nonemergency treatment or supervision. (a)
Voluntary admission.

- (1) Acceptance for voluntary inpatient treatment at a psychiatric facility shall be in accordance with usual standards for hospital admissions.
- (2) A facility may admit for evaluation, diagnosis, or treatment any individual under fifteen years of age for whom application is made by

his parent or guardian. If application for admission is countersigned by a minor aged fifteen through seventeen years before a family court officer, no hearing shall be necessary. If he elects not to sign, involuntary hospitalization proceedings shall be initiated.

- (3) A facility shall discharge a voluntary patient who has sufficiently improved so that hospitalization is no longer desirable. A voluntary patient or his guardian, representative, or attorney may request discharge in writing at any time following admission to the facility. If discharge would be dangerous to the patient or others, proceedings for involuntary hospitalization must be initiated as soon as possible but within twenty-four hours of the receipt by the administrator of the written request for discharge. If that time expires on a Saturday, Sunday or holiday, the time for initiation is extended to noon of the next court day. Upon the initiation of the proceedings, the facility is authorized to detain the patient until further order of the court. If the patient was admitted on his own application and the request for discharge is made by a person other than the patient, the discharge may be conditioned upon the agreement of the patient.
- (4) Notice of right to release. At the time of his admission and each six months thereafter, a voluntary patient and his guardian or representatives shall be notified in writing of his right and how to apply for a discharge.
 - (b) Involuntary hospitalization.
 - (1) Criteria. A person may be committed to a psychiatric facility for involuntary hospitalization if the court finds:
 - (A) That the person is mentally ill or suffering from substance abuse, and
 - (B) That he is dangerous to himself or others or to property, and
 - (C) That he is in need of care and/or treatment, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization.
 - (2) Initiation of proceeding. Court-ordered commitment to a psychiatric facility may be initiated as follows:
 - (A) Any person may file a petition executed under penalty of perjury alleging that a person located in the county meets the criteria for commitment to a psychiatric facility. The attorney general, his deputy, special deputy, or appointee designated to present the case shall assist the petitioner to state the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the physician to determine the person is in need of care and/or treatment and whether or not he is capable of realizing and making a rational decision with respect to his need

for treatment. If the petitioner believes that further evaluation is necessary before commitment, the petitioner may request such further evaluation.

- (B) In the event the subject of the petition has been given an examination, evaluation or treatment in a psychiatric facility within five days before submission of the petition, and hospitalization is recommended by the staff of the facility, the petition shall be accompanied by the administrator's certificate.

(3) Notice; waiver of hearing on petition.

- (A) The court shall set a hearing on the petition and shall order that notice of the time and place of such hearing shall be personally served upon those persons specified in a current order of commitment as provided by subsection (b) (4) (I) or, pursuant to section 1-401, Uniform Probate Code, upon those persons, excluding grandparents, who are enumerated in section 5-207, Uniform Probate Code, in the case of minor, and section 5-309, Uniform Probate Code, in the case of an adult, and who can be found, to the subject of the petition and the guardian of the person or property pursuant to Article V, Uniform Probate Code, if one has been previously appointed and to the public defender, attorney for the subject of the petition or other court-appointed attorney as the case may be. Notice shall also be given to such other persons as the court may designate.

(B) The notice shall include the following:

- (i) The date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to the subject; and a statement of the legal standard upon which commitment is authorized.
 - (ii) A copy of the petition;
 - (iii) A written notice, in plain and simple language, that the subject may waive such a hearing by voluntarily agreeing to hospitalization, or with the approval of the court, to some other form of treatment;
 - (iv) A filled-out form indicating such waiver;
 - (v) A written notice, in plain and simple language, that the subject or his guardian or representative may apply at any time for a hearing on the issue of the subject's need for hospitalization, if he has previously waived such a hearing;
 - (vi) Notice that the subject is entitled to the assistance of an attorney and that the public defender has been notified of these proceedings;
 - (vii) Notice that if the subject does not want to be represented by the public defender he may contact his own attorney;
- (C) If the subject executes and files a waiver of the hearing, upon acceptance by the court following a court determination that the person understands his right and is competent to waive them, the court shall order the subject to be committed to a facility that has

agreed to admit the subject as an involuntary patient or, if he is at such a facility, that he be retained there.

(4) Hearing on petition.

- (A) The court may adjourn or continue a hearing for failure to timely notify a spouse, guardian, relative or other person determined by the court to be entitled to notice.
- (B) The time and form of the procedure incident to hearing the issues in the petition shall be provided by court rule. Unless the hearing is waived, the judge shall hear the petition as soon as possible and no later than ten days after the date the petition is filed unless a reasonable delay is sought for good cause shown by those persons, excluding grandparents, enumerated in section 5-207, Uniform Probate Code, in the case of a minor and section 5-309, Uniform Probate Code, in the case of an adult.
- (C) The subject of the petition shall be present at all hearings unless he waives his right to be present, is unable to attend or creates conditions which make it impossible to conduct the hearing in a reasonable manner as determined by the judge. A waiver is valid only upon acceptance by the court following a judicial determination that the person understands his rights and is competent to waive them or is unable to participate. If the subject is unable to participate, the judge shall appoint a temporary guardian as provided in Article V, Uniform Probate Code, to represent him throughout the proceeding.
- (D) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested person, or the court on its own motion may request a hearing in another circuit because of convenience to the parties, witnesses, or the court or because of the individual's mental or physical condition.
- (E) The attorney general, his deputy, special deputy, or appointee shall present the case for hearings convened under this chapter, except that the attorney general, his deputy, special deputy, or appointee need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for involuntary hospitalization.
- (F) Counsel for the subject of the petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to inpatient hospitalization.
- (G) No individual may be found to require medical treatment unless at least one physician who has personally examined him testifies in person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition has refused to be examined by a licensed physician, he may be examined by a court-appointed licensed physician. If he refuses and there is sufficient

- evidence to believe that the allegations of the petition are true, the court may make a temporary order committing him to a psychiatric facility for a period of not more than five days for the purpose of a diagnostic examination and evaluation. The subject's refusal shall be treated as a denial that he is mentally ill or suffering from substance abuse. Nothing herein, however, shall limit the individual's privilege against self-incrimination.
- (H) The subject of the petition in a hearing under this section has the right to secure an independent medical evaluation and present evidence thereon.
- (I) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, or other rehabilitative treatment or supervision, the court shall order that he be discharged if he has been hospitalized prior to the hearing. If the court finds beyond a reasonable doubt that the criteria for involuntary hospitalization has been met, the court shall issue an order to any police officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. An order of commitment shall specify which of those persons served with notice pursuant to subsection (b) (3), together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.
- (J) The court may find that the subject of the petition is an incapacitated and/or protected person under Article V, Uniform Probate Code, and may appoint a guardian of the person and/or property for the subject under the terms and conditions as the court shall determine.
- (5) Period of detention. The psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from date of admission unless sooner discharged by the facility pursuant to section 334-76 or section 334-74, Hawaii Revised Statutes. At the end of the ninety-day period he shall be discharged automatically except as provided in sections 406, 411, and 607, Hawaii Penal Code, unless before expiration of the period and by a proceeding initiated pursuant to this section the facility obtains a court order for his recommitment. Recommitment for a period not to exceed ninety days may not be ordered unless the court determines that the criteria for involuntary hospitalization set forth in subsection (b) (1) continue to exist.
- (6) Notice of intent to discharge. When the administrator of a psychiatric facility contemplates discharge of an involuntary patient because of expiration of the court order for commitment or because the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization at subsection (b) (1), he shall

provide notice of intent to discharge. The notice shall be filed with the court and personally served on those persons which the order of commitment specifies as entitled to receive notice. If no objection is filed within three days of personal service, the court shall enter an order of discharge. If any person specified as entitled to receive notice files a written objection to discharge, the court shall conduct a hearing prior to issuing an order of discharge.

Sec. 334- Presumption; civil rights. No presumption of insanity or legal incompetency shall exist with respect to any patient by reason of his admission to a psychiatric facility under this chapter. The fact of the admission shall not in itself modify or vary any civil right of any such person, including but not limited to civil service statutes or rights relating to the granting, forfeiture, or denial of a license, permit, privilege, or benefit pursuant to any law, or the right to dispose of property, execute instruments, make purchases, enter into contractual relationships and to vote. If the administrator of a psychiatric facility or his deputy is of the opinion that a patient should not exercise any civil right, application for a show cause order shall be made to the court under the above proceedings after notice pursuant to section 1-401, Uniform Probate Code, to those persons excluding grandparents, enumerated in section 5-207, Uniform Probate Code, in the case of a minor and section 5-309, Uniform Probate Code, in the case of an adult for a judicial determination if there should be a suspension, or modification of such civil rights.

Sec. 334- Service of process and papers upon patients. Neither the administrator nor anyone connected with a psychiatric facility shall accept service of process or papers on behalf of a patient. Service of process or papers on a patient in a psychiatric facility or a patient on authorized or unauthorized absence from a psychiatric facility shall be made directly and personally upon the patient and also upon the administrator or his deputy and upon his guardian and / or the public defender, his attorney, or court-appointed attorney; otherwise, service upon the patient shall be incomplete and shall not give the issuing court or agency jurisdiction over the person of the patient. A legal process or paper served on a patient in a psychiatric facility shall be filed with the records of the patient, and the administrator or his deputy shall immediately inform the court or other agency out of which the process or paper issued, in writing, of the date of service and of the mental and physical condition of the patient.

SECTION 5. Section 334-71, Hawaii Revised Statutes, is amended to read:

"Sec. 334-71 Transfer of patients between facilities. (a) A patient at a psychiatric facility, including those held on court order, may be transferred to another psychiatric facility when the administrator of the sending facility determines that it would be in the best interests of the patient that the patient be transferred and the administrator of the receiving facility agrees to accept the patient; provided that prior notice of such transfer be given to the subject of such transfer and to those persons specified by the court pursuant to section 334- (b) (4) (I)."

SECTION 6. Section 334-72, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Upon receipt of a certificate of the Veterans Administration or other agency of the United States that facilities are available for the care and treatment of a person previously admitted to a psychiatric facility and that the person is eligible for such care and treatment, the administrator of the psychiatric facility or his deputy may transfer the person to the Veterans Administration or other agency of the United States for care and treatment, except a person admitted or committed on court order as provided in chapters 571, 704 and 706 or transferred under section 334-74. The administrator of the sending facility or his deputy shall send prior notice of such transfer as provided in section 334-71. A person transferred under this section shall be deemed to be admitted for hospitalization to any facility of the Veterans Administration or other agency of the United States pursuant to the provisions of part IV. The person, when admitted to a facility operated by or contracting with the Veterans Administration or other agency of the United States, within or without this State, shall be subject to the rules and regulations of the Veterans Administration or other agency of the United States. The chief officer of the Veterans Administration or of the institution operated by any other agency of the United States to which the person is so admitted shall with respect to such person be vested with the same powers as administrators of licensed psychiatric facilities within this State with regard to detention, transfer, authorized absence or discharge. Jurisdiction is retained in this State and specifically in the family court of the circuit in which the sending facility was located to inquire at any time into the mental and physical condition of the person so admitted and to determine the necessity for his continued hospitalization, and all transfers under this section are so conditioned."

SECTION 7. Section 334-73, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 334-74, Hawaii Revised Statutes, is amended to read:

"Sec. 334-74 Transfer of residents of correctional facilities. If any resident of a state correctional facility is in need of hospital treatment for mental illness or substance abuse, the director of social services and housing or the officer in charge of the correctional facility may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist employed by the department of health showing the need for such hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of social services and housing, and, if the continued hospitalization of the resident beyond the expiration of the period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident's release from the state correctional facility; provided that a judicial hearing pursuant to section 334- (b) (3) (a) and 334-

ACT 131

(b) (3) (B) be held by the same circuit court that sentenced such resident. Notice of such hearing shall be given pursuant to section 1-401, Uniform Probate Code, to those persons, excluding grandparents, enumerated in section 5-207, Uniform Probate Code, in the case of a minor and section 5-309, Uniform Probate Code, in the case of an adult. In the event that discharge from the hospital occurs before the expiration of the maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility. As used in this section, "resident" means any person serving a sentence in a state correctional facility or any child or minor detained in a state correctional facility."

SECTION 9. Section 334-76, Hawaii Revised Statutes, is repealed.

SECTION 10. The provisions of this Act are severable; if any provision or application of this Act is held invalid, such invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application.

SECTION 11. Statutory material to be repealed is bracketed. New material, other than the addition of new parts, is underscored. In printing this Act, the revisor of statutes need not include brackets, the bracketed material, or the underscoring.*

SECTION 12. This Act shall take effect upon its approval.

(Approved May 20, 1976.)

ACT 131

S.B. NO. 528

A Bill for an Act Relating to Witnesses, Rights of Accused and Counsel and other Services for Indigent Criminal Defendants.

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

SECTION 1. Section 621-11, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 801-5, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 802-7, Hawaii Revised Statutes, is deleted and replaced in its entirety:

"Sec. 802-7 Litigation expenses. The court may, upon a satisfactory showing that a criminal defendant is unable to pay for transcripts or witness fees and transportation, or for investigatory, expert or other services, or for filing costs, appeal bonds or other payments required to be made into court, and upon a finding that the same are necessary for an adequate defense, direct that such expenses be paid from available court funds or waived, as the case may be; provided, however, that where the defendant is represented by the state public defender or by other counsel appointed by the court except for such other counsel appointed by the court for reasons of conflict of interest on the part of the public defender, the public defender shall pay for or authorize payment for the same, if the public defender determines that the defendant is unable to pay for the same

*Edited accordingly.

and that the same are necessary for an adequate defense, and if there is a dispute as to the financial ability of the defendant such dispute shall be resolved by the court. In cases where other counsel have been appointed by the court for reasons of conflict of interest, the court may, upon the requisite showing of inability to pay and a finding that such expenses are necessary for an adequate defense as set forth above, direct that such expenses be paid from available court funds or waived, as the case may be.

SECTION 4. Section 621-9, Hawaii Revised Statutes, is amended to read as follows:

“Section 621-9 Witness expenses. Except as provided for in section 802-7, whenever a witness subpoenaed on behalf of the State in a criminal case or on behalf of a defendant at the expense of the State in a criminal case is discharged, the clerk of the court shall issue to him under seal of the court, a numbered certificate from a book having a stub with like designations, stating the name of the witness, when and where he was summoned or subpoenaed, the date of his discharge, the number of miles necessarily traveled from his place of residence to the place of holding court, the number of day's service, and the amount due for transportation and for service. The certificate, when correct, must be so certified by the public prosecutor or county attorney for witnesses subpoenaed on behalf of the State, and by the public defender for witnesses subpoenaed on behalf of a defendant, but no certificate shall be so certified unless presented to him within twelve months after the date of issue. On presentation of any duly certified witness' certificate to the state comptroller, the comptroller shall draw his warrant on the director of finance for the payment of the same out of the general fund of the State.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect July 1, 1977.

(Approved May 27, 1976.)

A Bill for an Act Making an Appropriation for Establishment of the “Hawaii Dental Education Plan”.

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

SECTION 1. The purpose of this Act is to assist residents of Hawaii to obtain a dental education in other states in view of the fact that there is no dental school in this State.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

*Edited accordingly.

“CHAPTER DENTAL EDUCATION”

Sec. -1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

“Department” means the department of budget and finance.

“Director” means the director of finance.

“Plan” means the Hawaii dental education plan.

“WICHE” means the Western Interstate Commission on Higher Education as described in chapter 310.

Sec. -2 Hawaii dental education plan, established. There is established the Hawaii dental education plan to assist in securing dental education for residents of the State of Hawaii. The plan shall be under the department of budget and finance.

Sec. -3 Hawaii dental education plan. (a) The department may enter into agreements with dental schools accredited by the American Dental Association not within the jurisdiction of WICHE, for the education of Hawaii residents.

(b) The agreements entered into under subsection (a) shall provide among other necessary and desirable provisions that the schools contracted with shall reserve a set number of vacancies in each class for qualified applicants who are residents of the State of Hawaii. The State, through the department, shall disburse moneys, on behalf of the student, to the school, the total of which for each student shall not exceed amounts being provided per student for a similar program under WICHE. The agreements may contain other provisions relating to the administration of the plan and any contracts thereunder.

(c) Subject to the limitation set by subsection (b), any amount allotted to a student shall be disbursed directly to the school.

(d) Any student participating in the plan shall be responsible for financing of his expenses except for the amount specified in a contract executed in conformance with this chapter. The State shall not be implicitly or explicitly presumed to be liable or in any way responsible for any cost of a dental education for any participating student except under such contract.

(e) Students approved for participation in the plan shall be residents of the State of Hawaii, and shall have met the entrance requirements of the contracting dental school. Determination of the amount of funds to be expended on behalf of a student approved for participation in the plan shall be based on need and ability; provided that where there is no demonstrated need, the State shall not be required to provide such specific sum.

(f) Students seeking participation in this program shall be required by the department of budget and finance to execute an agreement with the State, which shall, among other necessary and desirable provisions, provide that upon completion of the student’s dental education the student shall either:

- (1) Actively engage in professional practice or other professional pursuits in areas with inadequate dental service, with the department of health, or other acceptable service as determined by the director of social services, director of health, and the director of finance, jointly, or

(2) Repay all amounts expended by the State of Hawaii under this plan for the student's education.

(g) Neither the department of budget and finance nor any professional dental society in the State shall influence the selection of the qualified applicants for the plan nor the schools which the selected applicants attend.

Sec. -4 Contract administration. The department shall seek the assistance of WICHE for the administration of contracts and agreements entered into under this plan.

Sec. -5 Rules. The director may adopt, amend, and repeal rules necessary or desirable to the implementation of this chapter, subject to the provisions of chapter 91."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$39,000, or so much thereof as may be necessary, for the purposes of this Act, to be expended by the department of budget and finance.

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

(Approved May 27, 1976.)

ACT 133

S.B. NO. 2139-76

A Bill for an Act Relating to the Interim Tourism Policy Act.

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

SECTION 1. **Purpose and findings.** (a) The purpose of this Act is to establish an Interim State Policy on Tourism for the orderly planned growth of tourism so as to result in the maximum benefit to the people of Hawaii.

(b) The legislature finds that Hawaii is unique in its combination of beauty in the natural physical environment, in its peoples and their Aloha spirit, and in its cosmopolitan mixing of ethnic groups, cultures, religions and life-styles. These facets of beauty are to be preserved and enhanced, not only because they are the basis for Hawaii's attraction to visitors but because they are the basis for Hawaii's attraction to its own people. As other tourist destination areas in the world become increasingly competitive in the marketing of their assets and attractions, and as Hawaii in turn develops its visitor industry to respond to new and changing conditions, it must, as a matter of deliberate policy, seek to retain its uniqueness to visitors and residents, even as it proceeds to maintain the industry as an important source of economic benefits to the people of the State.

SECTION 2. Chapter 203, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

PART . INTERIM TOURISM POLICY

Sec. 203- Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Tourism" means the activities involved in providing and marketing services and products, including accommodations, to non-residents who visit Hawaii for recreation and pleasure.
- (2) "Visitor industry" means the industry consisting of private and public organizations which directly and indirectly provide services or products to non-residents who visit Hawaii for recreation and pleasure.
- (3) "Tourism promotional organization" means any public promotional organization whose sole function is to promote tourism in the Hawaiian islands.
- (4) "Director" means the director of planning and economic development, except that, in the event a tourism coordinator is established by law, the responsibilities and functions of the director of planning and economic development herein shall be transferred to the tourism coordinator.
- (5) "Resident" means any person who is domiciled in the State of Hawaii and does not maintain a legal residence outside Hawaii.

Sec. 203- Objectives and Policies. (a) It shall be the objective of state policy through its programs, authorities and resources to:

- (1) Provide an optimum of satisfaction and high quality service to visitors;
 - (2) Protect the natural beauty of Hawaii;
 - (3) Preserve and enrich the understanding, by visitors and residents, of our native Hawaiian heritage as well as the cultural and social contributions to Hawaii of all of its ethnic groups and people; and
 - (4) Sustain the economic health of the visitor industry to the extent that such economic health is compatible with the aforesaid objectives.
- (b) In pursuance of the objectives, legislative bodies, in the formulation of program policies, and all agencies and the visitor industry, in development and implementation of programs shall, insofar as practicable, adhere to the following interim policies:

(1) Planned growth of tourism

- (A) Develop a ten-year master plan for the growth of tourism for presentation to the 1978 session of the legislature. This plan shall, among other matters discussed below, take cognizance of Hawaii's need for additional job opportunities, need for tax revenues, the optimum distribution of the visitor industry throughout the state and the nature of the environment. It shall be the responsibility of the director of planning and economic development to see that this plan is prepared.

- (B) Upgrade and improve the facilities and services available to tourists in Waikiki, as part of the aforesaid master plan.
- (C) Provide adequate opportunities for county participation, federal agency participation, and private citizens' involvement in the decision-making process of tourism planning and policy formulation.

(2) Visitor satisfaction

- (A) Encourage the development of tourist destination areas attractive in appearance, manageable in terms of densities with wholesome recreational opportunities.

- (B) Encourage all state and county governmental and private agencies; legislative; executive and judicial, to do their utmost to assure the personal safety of residents and tourists both within and without tourist destination areas.
 - (C) Take whatever administrative, litigative, and legislative steps as are necessary, over the course of time, to minimize the problems of visitors in not receiving contracted services including transportation, tours, hotels, etc.
- (3) **Protection and promotion of Hawaii's natural beauty and attractions**
- (A) Protect and preserve shoreline areas and provide access to such areas for tourists and residents.
 - (B) Assure the rights of residents to the use of beaches and beach access areas, surfing and fishing sites, hiking trails, and other recreational sites and scenic areas.
 - (C) Reconstruct, maintain, and preserve sites which have been important in Hawaii's history.
 - (D) Promote various cultural and ethnic holidays, observances and festivities.
- (4) **Hawaii's heritage**
- (A) Promote the understanding by visitors and residents of our native Hawaiian heritage and the social and cultural contributions of all ethnic groups and people residing in Hawaii.
 - (B) Foster cultural and social exchanges between visitors and residents.
 - (C) Encourage the visitor industry to emphasize the cultural and social heritage of Hawaii in promoting tourism.
- (5) **Resident requirements**
- In pursuance of the state policy on tourism, all agencies, in the development of programs, shall, insofar as practicable, consider the following interim guidelines:
- (A) Attempt to reconcile amicably the activities and accommodations of the visitor with the daily pursuits and lifestyles of the residents.
 - (B) Regard the interests of the residents, including employment, as preferable when attempting reconciliation of conflicting resident and visitor requirements.
- (6) **Education and training**
- (A) Develop an understanding among all citizens of the role of tourism in Hawaii, both in terms of its economic and social importance and the problems it presents, through appropriate formal and informal learning experiences, and further, foster among all citizens the Hawaiian capacity for courtesy and the Aloha spirit.
 - (B) Provide for, in all educational levels throughout the State including, but not limited to, the primary school system, formal education in the areas of tourism and Hawaiian history and culture.
 - (C) Provide adequate opportunities for high quality education, training, and understanding of the Aloha spirit by all prospective or

present employees in the Hawaii visitor industry.

(7) **Criteria for growth**

- (A) Ensure that the growth of the visitor industry is consistent with the attainment of economic, social, physical, and environmental objectives in the state plan and county general plans. Such objectives include, but are not limited to, the striving for full and optimal employment and the attainment of desirable rates of population growth.
- (B) Continuously monitor and evaluate the social costs of growth of the visitor industry against the social benefits.
- (C) Ensure that all sectors of the visitor industry contribute to the generation of tax revenues needed to furnish governmental services. The visitor industry shall be assessed on an equitable basis with other industries. The visitor industry is expected to assume a proportionate share of the total tax burden, recognizing however that an excessive tax burden on any industry can jeopardize or restrict the growth of that industry.
- (D) Seek to eliminate those unreasonable and unnecessary barriers which raise the cost of constructing hotel and other visitor-related facilities.
- (E) Encourage the public and private sectors to cooperatively maintain an economically viable industry in keeping with the attainment of social, economic, and environmental objectives.
- (F) Emphasize in the State's tourism promotional efforts the high quality of the State's natural and cultural features.
- (G) Promote the visitor industry through such activities as the Hawaii Visitors Bureau and similar county agencies, and assure that the visitor industry contributes its fair share of the cost of such promotion.

Sec. 203- Interim Tourism Advisory Council. (a) To provide necessary advice and a means of citizen input, there is established an interim tourism advisory council consisting of:

- (1) Three representatives of the visitor industry appointed by the Governor;
 - (2) Three representatives of organized labor appointed by the Governor;
 - (3) Three representatives representing the public appointed by the Governor, one of whom the Governor shall designate as chairman;
 - (4) One representative from each county government, who shall be an ex-officio voting member.
- (b) In making appointments, the Governor shall consider having a council membership composed of residents of each political subdivision of the State. The members of the council shall serve without pay but shall be compensated for necessary expenses incurred. The council shall serve in an advisory capacity to the director."

SECTION 3. Severability. If any portion of this Act or section thereof, or its application to any person or circumstances is held to be invalid for any reason,

then the Legislature hereby declares that the remainder of the Act or sections thereof and each and every other provision thereof shall not be affected thereby.

SECTION 4. This Act shall take effect upon its approval and shall remain in effect until the adoption of the state plan pursuant to chapter 225, Hawaii Revised Statutes.

(Approved May 27, 1976.)

ACT 134

S.B. NO. 2745-76

A Bill for an Act Relating to the State Employment Program.

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

SECTION 1. Act 151, Session Laws of Hawaii 1975, is amended by amending the definition of "head of household" of section -2 of section 1 to read as follows:

"(4) "Head of household" means an individual if the individual maintains as the individual's home a household which constitutes the principal place of abode, and includes as a member of such household, a spouse, a son, stepson, or stepdaughter of such individual, or a descendant of a son or daughter of such individual, or any other person who is a dependent of the individual. A household includes all persons who occupy a group of rooms or a single room which constitutes a housing unit. A group of rooms or a single room is regarded as a housing unit when it is occupied as a separate living quarters, that is, when the occupants do not live and eat with any other persons in the structure, and when there are complete kitchen facilities for the exclusive use of the occupants of the household."

SECTION 2. Act 151, Session Laws of Hawaii 1975, is amended by amending section -11 of section 1 to read as follows:

"Sec. -11 Authority and priorities. The director may create and administer a statewide state-funded public service employment program. In carrying out the program, the director shall accord priority to individuals to be hired in the following order:

First: Unemployed heads of household who have been unemployed for more than fifteen weeks, including those who have exhausted their unemployment benefits and unemployed persons whether or not heads of household, in an underemployed group such as those who are disadvantaged and cannot successfully compete in the labor market. The group shall be defined and classifications therein shall be made by rules adopted by the director under chapter 91.

Second: All other unemployed heads of households, who are unemployment insurance claimants.

Third: All other unemployed heads of households, whether or not unemployment insurance claimants, who are certified by the director as recipients of state public assistance under chapter 346.

Fourth: All other unemployed persons, whether or not unemployment insurance claimants.

Persons employed in public service jobs under this chapter shall be paid wages which shall not be lower than the State minimum wage nor higher than \$10,000 a year.

Such persons shall not be considered state employees and shall not be subject to the provisions of law relating to state employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, collective bargaining, and state employee benefits, except that such persons shall be entitled to employee coverage under chapter 87, Hawaii Revised Statutes.

For purposes of chapter 386 such persons shall be deemed employees of the State within the meaning of the term "employee" as defined in section 386-1, and the provisions of that chapter shall apply."

SECTION 3. Act 151, Session Laws of Hawaii 1975, is amended by amending section 2 to read as follows:

"**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$11,133,500, or so much thereof as may be necessary, to implement the programs set forth in part II of the chapter created in section 1 of this Act. The funds appropriated shall be expended by the director of labor and industrial relations; provided that \$5,000,000, or so much thereof as may be necessary, shall be apportioned in the various counties in accordance with the unemployment rate of each county determined each month by the director. Any part of this appropriation unexpended as of June 30, 1976 shall carry over to implement part II of the chapter created in section 1 of the Act, for the fiscal year 1976-77."

SECTION 4. Act 151, Session Laws of Hawaii 1975, is amended by amending section 3 to read as follows:

"**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary, to implement the programs set forth in parts III and IV of the chapter created in section 1 of this Act. The funds appropriated shall be expended by the director of labor and industrial relations. Any part of this appropriation unexpended as of June 30, 1976 shall carry over to implement the programs set forth in parts III and IV of the chapter created in section 1 of this Act for the fiscal year 1976-77."

SECTION 5. Act 151, Session Laws of Hawaii 1975, is amended by amending section 4 to read as follows:

"**SECTION 4.** This Act shall be in effect for the period July 1, 1975 to June 30, 1977. This Act shall lapse and all appropriations under this Act not encumbered shall lapse on June 30, 1977."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000,000, or so much thereof as may be necessary, to implement Act 151, Session Laws of Hawaii 1975, as amended by this Act. The sum appropriated shall be expended by the director of labor and industrial relations for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

ACT 135

S.B. NO. 2932-76

A Bill for an Act Relating to the District Courts.

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

SECTION 1. Section 604-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 604-1 Judicial circuits; district judges; sessions. There shall be established in each of the judicial circuits of the State of Hawaii a district court with the powers and under the conditions herein set forth, which shall be styled as follows:

- (1) For the First Judicial Circuit: The District Court of the First Circuit.
- (2) For the Second Judicial Circuit [;]: The District Court of the Second Circuit.
- (3) For the Third Judicial Circuit: The District Court of the Third Circuit.
- (4) For the Fifth Judicial Circuit: The District Court of the Fifth Circuit.

There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of eleven judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh judge, respectively. In addition there shall be a twelfth judge who shall hear landlord-tenant and small claims matters, provided that when in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, he may authorize the twelfth judge to substitute for or act in addition to or otherwise in place of any other district judge of the district court of the first circuit. The district court of the second circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the third circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the fifth circuit shall consist of one judge. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.

The chief justice may appoint per diem district judges as may be necessary. Such judges shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a district court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days.

The district courts shall hold sessions at such places in their respective circuits and as often as the respective district judges deem essential to the promotion of justice."

*Edited accordingly.

ACT 136

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$88,000, or so much thereof as may be necessary, to be expended by the judiciary, for the purposes of this Act.

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

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

(Approved May 27, 1976.)

ACT 136

H.B. NO. 116

A Bill for an Act Relating to Exemptions from Attachment and Execution.

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

SECTION 1. Chapter 651, part III, Hawaii Revised Statutes, is amended by adding a new subpart B to be appropriately designated and to read as follows:

"B. REAL PROPERTY"

Sec. 651- Definitions. As used in this subpart:

- (1) "Head of a family" includes within its meaning:
 - (A) A man and woman when married, except as provided in section 651-
 - (B) Every individual who is residing on the real property with the man or woman, and under his or her care or maintenance, either:
 - (i) His or her minor child, or minor grandchild, or the minor child of his or her deceased wife or husband;
 - (ii) A minor brother or sister, or the minor child of a deceased brother or sister;
 - (iii) A father, mother, grandfather, or grandmother;
 - (iv) The father, mother, grandfather, or grandmother of a deceased husband or wife;
 - (v) An unmarried brother, sister, or any other of the relatives mentioned in this subparagraph, who have attained the age of majority, and are unable to take care of or support themselves.
 - (C) Every individual who is divorced or whose spouse is deceased and who has residing with him or her any of the individuals designated in subparagraph (B).
- (2) "Long-term lease" means a lease for twenty years or more.
- (3) "Owner" means an individual who has an interest in real property.
- (4) "Person" means any individual under sixty-five years of age other than the head of a family.
- (5) "Real property" consists of the dwelling house in which the owner resides and one parcel of land not to exceed one acre, upon which it is situated together with other buildings thereon. This parcel may be in fee simple or any other interest in real property which vests the immediate

right of possession, even though such right of possession is not exclusive, and includes land held under long-term lease, ownership rights in a condominium or stock cooperative unit.

Sec. 651- Real property exempt. Real property shall be exempt from attachment, execution, distress, demand, and forced sale of every nature and description as follows:

- (1) Real property of a fair market value not exceeding \$30,000 owned by the head of a family or by an individual sixty-five years of age or older.
- (2) Real property of a fair market value not exceeding \$20,000 owned by any person.

The amounts exempted in paragraphs (1) and (2) shall be determined by appraisal and shall be that amount which is over and above all liens and encumbrances on the real property at the time of any levy and execution thereon; provided that the amount exempted shall in no case exceed \$30,000. An exemption authorized under this section shall not apply to claims of mechanics and materialmen for labor performed and material furnished in the creation, alteration, or repair of the real property.

Any claim of exemption under this section made before the effective date of this part, shall be deemed to be amended on the effective date of this part, by increasing the value of any real property declared exempt to the value permitted by this section on the effective date of this part, to the extent that such increase does not impair or defeat the right of any creditor who has executed upon the real property which existed before the effective date of this part.

Sec. 651- Effect of separation, divorce, reconciliation. Following the entry of a decree of separate maintenance or an interlocutory decree of divorce, each spouse may claim a separate real property exemption under this part as a person. A subsequent reconciliation of the spouses when evidenced by a dismissal of the divorce action or vacation of the decree of separate maintenance executed by both spouses or their attorneys of record shall cancel a separate claim for a real property exemption and the spouses shall only have one real property exemption.

Sec. 651- Proceedings where real property can be divided without material injury. If, from the appraiser's report, it appears to the judge that the real property claimed can be divided without material injury, he shall, by order, direct the appraisers to set off to the claimant so much of the real property, including the residence and outbuildings, as will amount in value to the real property exemption and all liens and encumbrances and the execution may be enforced against the remainder of the real property subject to all liens and encumbrances; provided that all costs, attorneys and appraisers fees, and any other fees that may necessarily arise shall be borne solely by the judgment creditor.

Sec. 651- Sale where real property cannot be divided; application of proceeds. If, from the appraiser's report, it appears to the court that the real property claimed exceeds in value, over and above all liens and encumbrances thereon, the amount of the real property exemption, and that it can not be divided, he shall make an order directing its sale under the execution.

If the sale is made, the proceeds thereof shall be applied in the following

order of priority: first, to the discharge of all liens and encumbrances, if any, on the real property; second, to the real property exemption claimant to the amount of the exemption; third, to the satisfaction of the execution costs, attorneys and appraisers fees, and any other fees that may necessarily arise; fourth, to the satisfaction of the judgment and fifth, the balance, if any, to the claimant.

Sec. 651- After sale, money equal to real property exemption protected. The money paid to the claimant as his exemption shall be entitled, for the period of six months thereafter, to the same protection against legal process which section 651- gives to the real property."

SECTION 2. Chapter 651, part III, Hawaii Revised Statutes, is amended by adding a new subpart C to be appropriately designated and to read as follows:

"C. PERSONAL PROPERTY

Sec. 651- Certain personal property and insurance thereon, exempt. The following described personal property up to the value set forth shall be exempt from attachment, execution, distress, demand, and forced sale of every nature and description as follows:

- (1) All necessary household furnishings and appliances, books and wearing apparel, ordinarily and reasonably necessary to, and personally used by a debtor or his family residing with him; and, in addition thereto, jewelry, watches, and items of personal adornment up to an aggregate cash value not exceeding \$1,000.
- (2) One motor vehicle up to a value of \$1,000 over and above all liens and encumbrances on the motor vehicle; provided that the value of the motor vehicle shall be measured by established wholesale used car prices customarily found in guides used by Hawaii motor vehicle dealers; or, if not listed in such guides, fair wholesale market value, with necessary adjustment for condition.
- (3) Any combination of the following: tools, implements, instruments, uniforms, furnishings, books, equipment, one commercial fishing boat and nets, one motor vehicle, and other personal property ordinarily and reasonably necessary to and personally owned and used by the debtor in the exercise of his trade, business, calling, or profession by which he earns his livelihood.
- (4) One parcel of land, not exceeding two hundred fifty square feet in size, niche or interment space owned, used, or occupied by any person, or by any person jointly with any other person or persons, in any graveyard, cemetery, or other place for the sole purpose of burying the dead, together with the railing or fencing enclosing the same, and all gravestones, tombstones, monuments, and other appropriate improvements thereon erected.
- (5) The proceeds of insurance on, and the proceeds of the sale of, the property in this section mentioned, for the period of six months from the date the proceeds are received.
- (6) The wages, salaries, commissions, and all other compensation for per-

sonal services due to the debtor for services rendered during the thirty-one days before the date of the proceeding.

Sec. 651- Personal property not exempt. No article or type of personal property mentioned in section 651- is exempt from execution issued upon a judgment recovered for its price, or upon a judgment of foreclosure of a mortgage thereon or for taxes or fines or any debt due the State.

Sec. 651- Application of proceeds of sale. When the property thus taken is sold the proceeds of the sale thereof shall be applied in the following order of priority: first, to the discharge of all liens and encumbrances, if any, on the personal property; second, to the personal property exemption claimant to the amount of the exemption; third, to the satisfaction of the execution costs, attorneys and appraisers fees, and any other fees that may necessarily arise; fourth, to the satisfaction of judgment, and fifth, the balance, if any, to the claimant."

SECTION 3. Chapter 651, part III, subpart A, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designed and to read as follows:

"Sec. 651- Proceedings on execution; appraisers; expiration of lien, result. When an execution for the enforcement of a judgment is levied upon real or personal property under subpart B or C, the judgment creditor may at any time within sixty days thereafter apply to the court for the appointment of a person or persons to appraise the value thereof. If such application is not made within sixty days after the levy of such execution the lien of the execution shall cease at the expiration of such period, and no execution based upon the same judgment shall thereafter be levied upon the real or personal property.

Sec. 651- Application form contents. The application shall be made upon a verified petition of the judgment creditor filed with the court showing:

- (1) The fact that an execution has been levied upon the real or personal property within sixty days prior to the filing of the petition.
- (2) A description of the real or personal property and the name of the claimant of an exemption under subpart B or C.
- (3) That the value of the real or personal property, over and above all liens and encumbrances thereon, exceeds the amount of the real or personal property exemption.
- (4) That no previous execution arising out of the same judgment has been levied upon the real or personal property.

Sec. 651- Service of petition and notice of hearing; effects of failure to serve; appointment of appraisers. Within ninety days from the date of filing the petition, a copy thereof, with the notice of the time and place of hearing, shall be served personally by any person over the age of majority and by certified mail, return receipt requested, upon the claimant or his attorneys at least ten days before the hearing, then upon affidavit or refusal of such services or inability to locate upon diligent search and inquiry, by publication once in a newspaper of general circulation in the State at least twenty days before the hearing. If the notice is not served, the lien of the execution shall cease at the expiration of the ninety-day period, and no execution based upon the same judgment shall

ACT 137

thereafter be levied upon the real or personal property.

At the hearing the court may, upon proof of the service of a copy of the petition and notice, and of the facts stated in the petition, appoint one to three disinterested residents of the county in which the property is situated to appraise the value of the real or personal property."

SECTION 4. Sections 651-62 and 651-63, Hawaii Revised Statutes, are amended to read:

"Sec. 651-62 Indemnity bond if exemption claimed. If any officer levies or is about to levy an attachment, execution, or other process on any property claimed as exempt under subpart C, and a doubt arises as to the liability of the property to be seized or sold, he may demand of the plaintiff a bond with sufficient sureties, payable to the officer, in a sufficient penalty, conditioned to indemnify and save harmless the officer against all damages, costs, and expenses which he may sustain in consequence of the seizure or sale of the property. If the bond is not given after twenty-four hours' notice in writing from the officer to the plaintiff, his agent, or attorney, if it is required, the officer may refuse to levy, or, having levied, may dismiss the levy. If the required bond is given, the officer shall seize and sell or dispose of the property according to the command of the process in his hands.

Sec. 651-63 Liability for selling exempt property. If any officer or other person seizes or sells any property exempt from execution under subpart C, he shall be liable to an action at the suit of the owner for all damages and costs sustained thereby, including an attorney's fee to be fixed by the court before which the action is tried, and the fact that the officer or person has demanded and received the indemnifying bond mentioned in section 651-62 shall not exempt him from the liability in this section specified."

SECTION 5. Sections 651-65, 651-66, and 651-67, Hawaii Revised Statutes, are repealed.

SECTION 6. Chapter 651, part III, Hawaii Revised Statutes, is amended by designating sections 651-61 to 651-64 as subpart A titled "Generally".

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

ACT 137

H.B. NO. 626

A Bill for an Act Relating to Preventing Litter from Trucks.

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

SECTION 1. Chapter 291C, part XII, Hawaii Revised Statutes, is amend-

*Edited accordingly.

ed by adding a new section to be appropriately designated and to read as follows:

"Sec. 291C- Spilling loads on highways. (1) No vehicle shall be moved on any highway, unless such vehicle is so constructed or loaded as to prevent any of its load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a highway in cleaning or maintaining the highway.

(2) No vehicle shall be driven or moved on any highway when any load thereon is not entirely within the body of the vehicle; provided, however, that this prohibition shall not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets, or other suitable mechanical device to prevent such load from dropping onto the highway or from shifting in any manner and, further, no vehicle shall be operated on any highway with any load thereon projecting beyond the extreme width of the vehicle.

(3) No vehicle shall be driven or moved on any highway with any load consisting partially or entirely of loose paper, empty cartons, crates, sand, dirt, or any other material susceptible of being blown or carried by the wind, unless such load is entirely covered by tarpaulin, net, canopy or other suitable material, effectively preventing any part of such load from being blown or carried by the wind. Vehicles carrying agricultural produce from fields during harvesting shall be exempt from the requirements of this section but the owner of the vehicle must provide for the reasonable removal of all such produce spilled or dropped on the highway.

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 27, 1976.)

ACT 138

H.B. NO. 846

A Bill for an Act Relating to Marriage Licenses.

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

SECTION 1. Section 572-5, Hawaii Revised Statutes, is amended to read:

"Sec. 572-5 Marriage license; agent to grant; fee. (a) The department of health shall appoint, and at its pleasure remove, one or more suitable persons as agents authorized to grant marriage licenses under this chapter in each judicial circuit. Any agent appointed under this subsection and receiving an application for a marriage license, shall collect from the applicant for the license \$8, of which the agent except those provided for in subsection (b), shall retain \$4 for his benefit and compensation and shall remit \$4 to the director of finance of the State.

*Edited accordingly.

ACT 139

(b) The department may appoint as regular employees under the civil service and classification laws the number of suitable persons as agents authorized to grant marriage licenses in the district of Honolulu for whom provision has been made in the general appropriation act. In the case of such agents, the full amount collected from applicants shall be remitted to the director of finance as a general realization of the State.

(c) Every agent appointed under this section may administer the oaths required by this chapter to be taken.

(d) The department or its authorized agents shall furnish to each applicant for a marriage license information, to be provided by the department, relating to population stabilization, family planning, and birth control."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 139

H.B. NO. 942

A Bill for an Act Relating to Bonus to Pensioners.

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

SECTION 1. Section 88-11, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 88-11 Bonus; amounts available. Except as herein provided, every pension payable under the employees retirement system or payable pursuant to any law of the State, or by any county or independent public board or commission, shall be increased by a bonus for each month as follows:

- (1) Effective July 1, 1976, \$77.82 per month to those retirants and pensioners who had, before July 1, 1966, ten or more years of service; provided, that any member who is retired because of physical or mental disability due to any injury or disease incurred while in the performance of his duty as a public employee shall be entitled to receive the bonus payment without meeting the minimum service requirement;
- (2) Effective July 1, 1976, \$31.12 per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;
- (3) Effective July 1, 1976, \$31.12 per month additional to the above bonus or bonuses to those retirants or pensioners who have had twenty-one or more years of service;
- (4) Effective July 1, 1976, if the pension as increased by the bonus or bonuses does not equal \$202.32 per month, the bonus shall be further increased by such sum, not in excess of \$31.12, as will bring the total of the pension and bonus to \$202.32 per month; provided, that where the

*Edited accordingly.

- dependents of a deceased pensioner are receiving pension by reason of his death, the total only of all amounts paid to the dependents shall be so increased, and the increase herein shall be shared by them in proportion to the respective amount of pension receivable by them exclusive of this increase;
- (5) In the case of any retirement allowance for service commencing after June 30, 1965, pursuant to subdivision (1) or (3) of section 88-74, the only bonus payable shall be in the amount by which the benefit payable under the subdivisions is less than the bonus as set forth above, provided, that in no case shall a person who retires after June 30, 1965, receive less under the service and ordinary disability retirement system benefits, plus the bonus payable under this section than he would have received if subdivision (5) had not been enacted;
- (6) Any provisions of this section to the contrary notwithstanding, there shall be paid to every person who on June 30, 1965, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) On January 1, 1966, seven and one-half per cent of the retirement allowance or pension;
 - (B) On July 1, 1969, an additional ten per cent of the retirement allowance or pension;
 - (C) On July 1, 1970, an additional ten per cent of the retirement allowance or pension;
 - (D) On July 1, 1973, an additional five and one-half per cent of the retirement allowance or pension;
 - (E) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (7) Any provision of this section to the contrary notwithstanding, there shall be paid to every person who retired between July 1, 1965 and June 30, 1970, and who, on June 30, 1974, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) On July 1, 1974, five and one-half per cent of the retirement allowance or pension;
 - (B) On July 1, 1976, an additional eight per cent of the retirement allowance or pension."

SECTION 2. Section 88-17, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 88-17 Bonus payment; limitation. No bonus shall be payable to any person retiring after June 30, 1971; provided that this limitation shall not apply to bonus payments for retired patient employees receiving a pension under Chapter 326. Such patient employees including those who retired after June 30, 1971 and

ACT 140

prior to July 1, 1976 may continue to receive bonus payments authorized under Section 88-11."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance the sum of \$817,424 or so much thereof as may be necessary for the purposes of this Act. Of the sum appropriated, \$807,000 shall be expended by the department of budget and finance and \$10,424 shall be expended by the department of health.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

ACT 140

H.B. NO. 1411

A Bill for an Act Relating to Separation.

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

SECTION 1. The purpose of this Act is to correlate the grounds for a separation from bed and board with the grounds for divorce, and to clarify the rights of parties who are separated under a decree of separation from bed and board to a divorce at a subsequent time.

SECTION 2. Section 580-71 Hawaii Revised Statutes is amended to read as follows:

"Sec. 580-71 Grounds for separation. The family court may decree a separation from bed and board for a period not to exceed two years in any matrimonial action upon a petition for separation when the court finds the marriage is temporarily disrupted."

SECTION 3. The Hawaii Revised Statutes are amended by adding a new section to be numbered and to read as follows:

"Sec. 580-71.5 Separation no bar to divorce. Any party to a matrimonial action in which a decree of separation from bed and board has been entered, or any party to an action for separate maintenance in which a decree has been entered, may, notwithstanding the existence of such a decree, institute a matrimonial action and petition for the dissolution of that marriage, or any ground other than those set forth in sub-paragraphs (2) and (3) of Section 580-41, as amended, and in support of such petition may introduce evidence relating to events and facts occurring and existing both prior and subsequent to the entry of the decree of separation from bed and board in the prior matrimonial action, or the prior action for separate maintenance."

*Edited accordingly.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

ACT 141

H.B. NO. 2022-76

A Bill for an Act Relating to the Establishment of State Policy for Senior Centers.

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

SECTION 1. Chapter 349, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 349- State policy for senior centers. The commission on aging shall be responsible for establishing state policy for senior centers. Such policy shall include, but not be limited to, the following:

- (1) Establishment of comprehensive long range and immediate goals and objectives pursuant to chapter 349;
- (2) Establishment of state standards for the operation and maintenance of senior centers;
- (3) Establishment of priorities for program implementation and of alternatives for program implementation;
- (4) Delineation of the separate and mutual roles, responsibilities, and authorities of the State and of the several counties relative to the development and administration of senior centers and senior center programs; and
- (5) Establishment of a mechanism to provide for the effective monitoring of senior centers and senior center programs."

SECTION 2. If either House Bill No. 62 or Senate Bill No. 166 is enacted during the regular session of 1976, the words "commission on aging" as used in section 1 of this bill shall be deleted and the words "executive office on aging" or other title adopted therein shall be substituted by the revisor of statutes provided this bill is enacted.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2250, or so much thereof as may be necessary, to the commission on aging or the executive office on aging, as the case may be, for the purpose of this Act.

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

*Edited accordingly.

ACT 142

ACT 142

H.B. NO. 2239-76

A Bill for an Act Relating to Public Money and Public Contracts.

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

SECTION 1. Section 103-53.5, Hawaii Revised Statutes, is amended to read:

"Sec. 103-53.5 Out-of-state purchases. Where the bidder or vendor is an out-of-state vendor not doing business in the state, the package bid or purchase price, for the purpose of determining the lowest price bid, shall be increased by the applicable retail rate of general excise tax and the applicable use tax. The lowest responsible bidder, taking into consideration the above increases, shall be awarded the contract, but the contract amount of any contract awarded shall be the amount of the bid offered and shall not include the amount of said increases."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 143

H.B. NO. 2612-76

A Bill for an Act Relating to the Real Estate Recovery Fund.

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

SECTION 1. Section 467-16, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 467-16 Real estate recovery fund; use of fund; fees. The real estate commission shall establish and maintain a real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesman, upon the grounds of fraud, misrepresentation, or deceit, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$10,000 for damages sustained by the fraud, misrepresentation, or deceit, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

When any person makes application for an original license to practice as a real estate broker or salesman he shall pay, in addition to his original license fee, a fee of \$50 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

*Edited accordingly.

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

(Approved May 27, 1976.)

ACT 144

H.B. NO. 2613-76

A Bill for an Act Relating to the Contractors Recovery Fund.

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

SECTION 1. Section 444-26, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 444-26 Contractors recovery fund; use of fund; fees. The contractors license board is authorized and directed to establish and maintain a contractors recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed contractor, which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, may recover by order of the circuit court or district court of the county where the violation occurred an amount of not more than \$10,000 for damages sustained by the act, representation, transaction or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

Every contractor, when renewing his license in 1974, shall pay in addition to his license renewal fee, a fee of \$50 for deposit in the contractors recovery fund. On or after May 1, 1974, when any person makes application for a contractors license he shall pay, in addition to his original license fee, a fee of \$50 for deposit in the contractors recovery fund. In the event that the contractors license board does not issue the license, this fee shall be returned to the applicant."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 145

H.B. NO. 2960-76

A Bill for an Act Relating to Overtime Compensation for Public Officers and Employees.

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

SECTION 1. Section 80-4, Hawaii Revised Statutes, is amended by amending subsection (e) thereof to read as follows:

"(e) Employees shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half hours for each hour of overtime worked.

*Edited accordingly.

ACT 146

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 146

S.B. NO. 1794-76

A Bill for an Act Relating to Notaries Public.

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

SECTION 1. Section 456-2, Hawaii Revised Statutes, is amended to read:

"Sec. 456-2 Qualifications; oath. Every person appointed a notary public shall, at the time of his appointment, be a resident of the State, possess the other qualifications required of public officers and be at least eighteen years of age; provided, that the attorney general may, for public convenience and necessity, commission a notary for any number of judicial circuits, and the notary shall keep a separate record for each circuit. Every person appointed to that office shall, before entering thereon, take and subscribe an oath for the faithful discharge of his duties, which oath shall be filed in the department of the attorney general."

SECTION 2. Section 456-9, Hawaii Revised Statutes, is amended to read:

"Sec. 456-9 Fees. The attorney general shall charge and collect the following fees:

For issuing the original commission, \$35;

For renewal of commission, \$15.

The clerk of each circuit court shall charge and receive the following fees:

For filing a copy of a commission, \$3;

For each certificate of authentication, \$1.

The foregoing fees collected by the attorney general shall be deposited with the director of finance to the credit of the general fund."

SECTION 3. Section 456-17, Hawaii Revised Statutes, is amended to read:

"Sec. 456-17 Fees. Subject to section 456-18, every notary public is entitled to demand and receive the following fees:

For noting the protest of mercantile paper, \$2;

For each notice and certified copy of protest, \$2;

For noting any other protest, \$3;

For every notice thereof, and certified copy of protest, \$3;

For every deposition, or official certificate, \$2;

For the administration of oath, including the certificate of oath, \$1; for

*Edited accordingly.

affixing the certificate of the oath to every duplicate original instrument beyond four, 50 cents;

For taking any acknowledgement, \$2 for each party signing; for affixing to every duplicate original beyond one of any instrument acknowledged before him, his certificate of the acknowledgement, \$1 for each person making the acknowledgement."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

ACT 147

S.B. NO. 1824-76

A Bill for an Act Relating to the Appraisal of Public Lands.

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

SECTION 1. Section 171-17, Hawaii Revised Statutes, is amended to read:

"Sec. 171-17 Appraisals. (a) Public auction. The appraisal of public lands for sale or lease at public auction for the determination of the upset price may be performed by an employee of the board of land and natural resources qualified to appraise lands, or by one but nor more than three disinterested appraisers whose services shall be contracted for by the board; provided, that the upset price or upset rental shall be determined by disinterested appraisal whenever prudent management so dictates. No such lands shall be sold or leased for a sum less than the value fixed by appraisal; provided, that for any sale or lease at public auction, the board may establish the upset sale or rental price at less than the appraisal value set by an employee of the board and the land may be sold or leased at that price. The board shall be reimbursed by the purchaser or lessee for the cost of any appraisal required to be made by a disinterested appraiser or appraisers contracted for by the board.

(b) Drawing or negotiation. The sale price or lease rental of lands to be disposed of by drawing or by negotiation shall be no less than the value determined by a disinterested appraiser or appraisers whose services shall be contracted for by the board, and such appraisal, and any further appraisal made at the request of the purchaser and with the approval of the board, shall be at the cost of the purchaser.

(c) Repurchase. In the repurchase of any land by the board, the board shall have the option to repurchase the land for the original sale price or the fair market value at the time of repurchase, whichever is the lower. Any improvements affixed to the realty shall be purchased at their fair market value. At the time of the repurchase, the fair market value of the land, and the im-

*Edited accordingly.

ACT 148

provements, if any, shall be determined by a qualified appraiser whose services shall be contracted for by the board; provided, should the owner fail to agree upon the value, he may appoint his own appraiser who together with the board's appraiser shall appoint a third appraiser, and the value shall be determined by arbitration as provided in chapter 658. The owner shall pay for all appraisal costs, except that the cost of the third appraiser shall be borne equally by the purchaser and the board.

(d) Reopening. In the event of reopening of the rental to be paid on a lease, the rental for any ensuing period shall be the rental for the immediately preceding period or the fair market rental at the time of reopening, whichever is the higher. At the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the board; provided, that should the lessee fail to agree upon the fair market rental, he may appoint his own appraiser who together with the board's appraiser shall appoint a third appraiser and the fair market rental shall be determined by arbitration as provided in chapter 658. The lessee shall pay for his own appraiser, the board shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the board.

(e) Purchase. The appraisal of private property to be acquired by the board may be performed by one but not more than three disinterested appraisers whose services shall be contracted for by the board and no land shall be purchased for a sum greater than the highest value fixed by the appraiser or appraisers; provided, that the board may, after a review of the appraisals by the appraiser or appraisers or the attorney general, purchase the property at a value greater than the highest value if the higher value is determined by the appraiser or appraisers or the attorney general to be justified and within the range of market value; provided further that this limitation shall not apply where acquisition is by condemnation.

(f) Whenever more than one appraiser is appointed each shall prepare and submit an independent appraisal. All appraisal reports shall be available for study by the public."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 148

S.B. NO. 1853-76

A Bill for an Act Relating to Bicycles.

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

SECTION 1. Section 286-2, Hawaii Revised Statutes, Definition of Bicycle: "Bicycle" means every device propelled by human power or motor power of

*Edited accordingly.

one and one-half horsepower or less upon which any person may ride, having two tandem wheels sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

SECTION 2. Section 291C-1, Hawaii Revised Statutes, is amended by amending items (14), (15) and (40), the definitions of "motor vehicle", "motorcycle", and "vehicle" to read:

- (14) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but not operated upon rails but excluding bicycle.
- (15) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor and bicycle.
- (40) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks, but excluding bicycle."

SECTION 3. Section 291C-143, Hawaii Revised Statutes, is amended to read:

"Sec. 291C-143 Riding on bicycles. (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereon.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, however no more than one person will be allowed to ride a bicycle equipped with a motor at a time.

(c) No person less than fifteen years of age shall operate a bicycle equipped with a motor."

SECTION 4. Section 291C-145, Hawaii Revised Statutes, is amended to read:

"Sec. 291C-145 Riding on roadways and bicycle paths. (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall ride in single file; provided that upon paths or parts of roadways set aside for the exclusive use of bicycles riding two abreast shall be permitted, unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by the counties.

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and shall not use the roadway; provided that the counties of 100,000 people or more may, by ordinance, post certain bike ways to prevent persons riding a bicycle equipped with a motor from using them.

(d) No person shall ride a bicycle equipped with a motor on any sidewalk.

SECTION 5. Section 291C-147, Hawaii Revised Statutes, is amended to read:

"Sec. 291C-147 Lamps and other equipment on bicycles. (a) Any bicycle

used upon any highway from thirty minutes after sunset until thirty minutes before sunrise shall display a lighted lamp, facing forward, which shall meet the following specifications:

- (1) Emit a white light;
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the front of the bicycle from a distance of at least five hundred feet.

(b) A tail lamp when used on a bicycle shall meet the following specifications:

- (1) Emit a red light; and
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the rear of the bicycle from a distance of at least five hundred feet.

(c) A lamp meeting the specifications of subsections (a) and (b) displayed on the left arm or left leg of the bicycle operator shall be considered to meet the requirements of subsections (a) and (b).

(d) After December 31, 1974, no person shall use any bicycle upon any highway from thirty minutes after sunset until thirty minutes before sunrise unless the bicycle or the operator is equipped with Class A reflectors meeting the specifications of the Society of Automotive Engineers Standard J594d-1970, or an area of reflectorized material, as follows:

- (1) A crystal (white) reflector with a minimum of three square inches in area or six square inches of white reflectorized material on the front facing straight ahead in a position which will not be obstructed at any time when viewed from the front of the bicycle;
- (2) An amber reflector with a minimum of three square inches in area or twelve square inches of amber reflectorized material on each side facing outward;
- (3) Amber reflectors on both front and rear surfaces of all pedals;
- (4) A red reflector with a minimum of three square inches in area facing to the rear in a position which will not be obstructed at any time when viewed from the rear; and
- (5) The requirement of item (2) of this subsection shall not apply to bicycles having a reflectorized finish covering the entire bicycle frame.

(e) After December 31, 1974, no person shall use any bicycle upon the highway unless it is equipped with a bell or any other device, except a siren or a whistle which are prohibited, capable of giving a signal audible for a distance of at least one hundred feet.

(f) A bicycle propelled exclusively by human power shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(g) A bicycle equipped with a motor shall have:

- (1) A braking device attached at the wheel hub which will enable the operator to stop the bicycle in twenty-four feet from a speed of twenty miles per hour on dry, level, clean pavement.

(h) A bicycle equipped with a motor when used upon any highway from thirty minutes after sunset until thirty minutes before sunrise shall display a

lighted headlamp and tail lamp.

(i) A motor used to power a bicycle shall not be modified in any manner except as authorized by the motor manufacturer and any such modification shall not increase the power capacity of the motor exceed one and one-half horsepower."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 149

S.B. NO. 1994-76

A Bill for an Act Relating to Traffic Violations.

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

SECTION 1. Section 291-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 291-1 Reckless driving or reckless riding of animals; penalty. Whoever operates any vehicle or rides any animal with a wilful or wanton disregard for the safety of persons or property is guilty of reckless driving or reckless riding of an animal, as appropriate, and shall be fined not more than \$1,000 or imprisoned not more than one year or both."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 150

S.B. NO. 2121-76

A Bill for an Act Relating to Payment for Medical and other Professional Health Care Services under Public Assistance Programs.

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

SECTION 1. Under Chapter 7, Subchapter XIX, Title 42, Social Security Act (medicaid program), our citizens who rely upon public assistance are entitled to the same medical and other professional health care as their more fortunate counterparts. The current payments for medical and other professional health services, such as the services of podiatrists, optometrists, opticians, and psychologists, by the department of social services and housing under the medicaid program is grossly inadequate which makes the rendering of private medical and

*Edited accordingly.

other professional health services to the poor a discouraging situation. The policy for payment for services of physicians, osteopaths, and other professional health care service providers is to pay seventy-five per cent of their charges which are usual and customary, but not to exceed the maximum permitted under federal regulations. These payments for such services under public assistance programs have not equitably reflected the increase in cost of providing the care, so that the treatment of medicaid patients is becoming an economically unrealistic proposition.

The purpose of this Act is to require the department of social services and housing to adopt rules to follow in paying under medicaid for medical and other professional health services on the basis of usual and customary charges in order to enable physicians and other providers of professional health care services to prudently offset the rising costs in the delivery of adequate medical and other professional health care services.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 346- Medical, dental, and other professional health care services; reimbursement of such services. The director of social services shall adopt rules under chapter 91 concerning payment for medical, dental, and other professional health care services under this chapter. The department shall pay usual and customary fees up to the maximum which federal rules permit. The biennial budget shall be based upon the most current profile of usual and customary fees and the profile shall be utilized for the biennial period. On even numbered years, the director shall submit a report to the legislature on or before January 1 to determine the amount of additional moneys required to implement the intent of this section, and shall request that such amount shall be reflected in the governor's supplemental budget to the legislature. If additional funds are appropriated, the profile upon which the additional appropriations are based shall be utilized for the remainder of the biennial period."

SECTION 3. Section 346-58, Hawaii Revised Statutes, is repealed.

SECTION 4. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$2,300,000, or so much thereof as may be necessary, for carrying out the purposes of this Act, to be expended for the period July 1, 1976 to June 30, 1977. The sum appropriated shall be expended by the department of social services and housing.

SECTION 5. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

*Edited accordingly.

SECTION 7. This Act shall take effect on July 1, 1976.

(Approved May 27, 1976.)

ACT 151

S.B. NO. 2226-76

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

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

SECTION 1. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

- "Sec. 88-51 Membership service generally.** Membership service includes
- (1) Service by an employee rendered since becoming a member;
 - (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
 - (3) Service as an employee of the federal government where the function carried on by said government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
 - (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time he renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived his right to any credit under the Civil Service Retirement Act (5 USCA 2251) based upon such service; provided, further, that credit for such service shall not exceed eight years;
 - (5) Service as an employee of the Hawaii territorial guard;
 - (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
 - (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of his employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees;
 - (8) Service, not exceeding four years, in the military service of the United States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to his induction into the military and who subsequently returned to employment of the Territory or county following his discharge;
 - (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General

ACT 152

Hospital [.] , Puunene Hospital and Waimea Hospital, Waimea, Kauai.
Membership service shall only be credited for any period for which the member makes the required contributions to the system."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

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

(Approved May 27, 1976.)

ACT 152

S.B. NO. 2294-76

A Bill for an Act Relating to State Health Planning.

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

SECTION 1. The legislature finds that health planning for the State is a complex area, and requires the input of persons of various interests and representing various geographical areas. The process of planning must seek to best meet the health needs of the State, as perceived by the residents of the State, who clearly, depending upon the community of residence, perceive different needs. The development of health programs, services, and facilities has largely followed the growth of the State in some areas, while other areas may not have adequate services available.

The purpose of this Act is to ensure the pragmatic health planning of the State by providing a permanent vehicle for citizen input into the health planning process, so that the total health services plans of the State will be based on informed decision-making.

SECTION 2. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new part, to be appropriately designated and to read as follows:

"PART . SUBAREA HEALTH PLANNING COUNCILS

Sec. 323D- Subarea health planning councils, established. There are established subarea health planning councils for geographical areas which shall be designated by the state agency. Each county shall have at least one subarea health planning council. The subarea health planning councils shall be administratively within the state agency.

Sec. 323D- Subarea health planning councils, functions. Each subarea health planning council shall review, seek public input, and make recommendations relating to health planning for the geographical subarea it serves. In addition, the subarea health planning councils shall:

- (1) Identify and recommend to the state agency the data needs and special concerns of the respective subareas;
- (2) Recommend a subarea health plan for its respective subarea which is coordinated with the goals and priorities of the state health plan;
- (3) Review that portion of the state health plan annual implementation plan and budget of the respective subareas and make recommendations

- for revisions to the statewide council;
- (4) Advise the state agency in the administration of the certificate of need program for their respective subareas.

Sec. 323D- Subarea health planning councils, composition, appointment. Each subarea health planning council shall be constituted in a manner consistent with Section 1512(c) of Public Law 93-641, and laws successor thereto or amendatory thereof. Members of subarea health planning councils shall be appointed by the Governor, subject to section 26-34. Nominations for appointment shall be solicited from health-related and other interested organizations, and agencies, including health planning councils, providers of health care within the appropriate subarea, and other interested persons. The members of the subarea health planning councils shall not be compensated for their services but shall be reimbursed for reasonable expenses necessary to the performance of their function.

Sec. 323D- Subarea council; representation on statewide health council. The members of the respective subarea health planning council shall recommend for gubernatorial appointment one person from its membership to be on the statewide council.

Sec. 323D- Subarea health planning councils; staff. Each subarea health planning council may contract for such professional and other services necessary to achieve the intent of this part, upon approval of the statewide council.

SECTION 3. Section 323D-12, Hawaii Revised Statutes, is amended to read as follows:

- “**Sec. 323D-12 Functions; state agency.** The state agency shall:
- (1) Conduct the health planning activities of the State in coordination with the subarea councils and implement those parts of the state health plan and plans of the health systems agencies within the State which relate to state government. If any recommendation of any subarea health planning council is not incorporated into a health systems plan, an explanation stating the reasons for non-incorporation shall be appended to that plan.
 - (2) Prepare, review, and annually revise the preliminary state health plan pursuant to Public Law 93-641, section 1523(a) (2).
 - (3) Assist the statewide council in reviewing the state medical facilities plan pursuant to section 323D-31.
 - (4) Administer the state certificate of need program pursuant to part IV of this chapter and serve as designated planning agency under Title XI, Sec. 1122 of the Social Security Act, as amended.
 - (5) Determine the need for new institutional health services proposed by health systems agencies.
 - (6) Review on a periodic basis all institutional health services offered in the State respecting the appropriateness of such activities.
 - (7) Do all things necessary as required by federal and state laws.”

SECTION 4. Section 323D-13, Hawaii Revised Statutes, is amended to read as follows:

ACT 153

"Sec. 323D-13 Statewide health coordinating council. (a) There is established a statewide health coordinating council which shall be advisory to the state agency pursuant to Public Law 93-641, section 1524 and whose membership shall include one representative from each subarea council established in accordance with the provisions of section 323D-

(b) The statewide council shall be appointed by the governor in accordance with section 26-34. The membership of the statewide council shall consist of:

- (1) Not less than sixteen persons appointed from lists of at least five nominees submitted to the governor by each health systems agency.
- (2) At least two representatives from each health systems agency; provided not less than one-half shall be consumers of health care and not providers of health care.
- (3) Not less than fifty-one percent of the membership shall be consumers of health care.
- (4) Not less than one-third of the providers of health care shall be direct providers of health care.

In addition, the governor may appoint public elected and appointed officials and other representatives of governmental authorities who shall make up not more than forty percent of the total membership of the statewide council.

(c) The statewide council shall select a chairman from among its members. The members of the statewide council shall not be compensated but shall be reimbursed for necessary expenses incurred in the performance of their duties."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 153

S. B. NO. 2394-76

A Bill for an Act Relating to Community Development.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

"CHAPTER HAWAII COMMUNITY DEVELOPMENT AUTHORITY

PART I. GENERAL PROVISIONS

Sec. -1 Findings and purpose. The legislature finds that many urban areas of the State are substantially underdeveloped or blighted, and are or are potentially in need of urban renewal, renovation, or improvement to alleviate

*Edited accordingly.

such conditions as dilapidation, deterioration, age, and other such factors or conditions which make such areas an economic or social liability.

The legislature further finds that there exists within the State vast, unmet community development needs. These include a lack of suitable housing for persons of low income; insufficient commercial and industrial facilities for rent; residential areas which do not have facilities necessary for basic liveability, such as parks and open space; and areas which are planned for extensive land allocation to one, rather than mixed uses.

It is further determined that the lack of planning and coordination in such areas has given rise to these community development needs and that existing laws and public and private mechanisms have either proven incapable or inadequate to facilitate timely redevelopment and renewal.

The legislature finds that a new and comprehensive authority for community development must be created to join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development. The purpose of this chapter is to establish such a mechanism in the Hawaii community development authority, a public entity which shall determine community development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition. For such areas designated as community development districts, the legislature believes that planning and implementation program of the Hawaii community development authority will result in communities which serve the highest needs and aspirations of Hawaii's people.

Sec. -2 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

- (1) "Authority" means the Hawaii community development authority established by section -3.
- (2) "County" means any county of the State.
- (3) "Local governing body" means the county council.
- (4) "Project" means a specific work or improvement, including real and personal properties, or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated, or improved by the authority, including a residential project, a redevelopment project, or a commercial project, all as defined herein, or any combination thereof, which combination shall hereinafter be called and known as a "multipurpose project."
 - (A) "Residential project" means a project or that portion of a multipurpose project, including residential dwelling units, designed and intended for the purpose of providing housing accommodations for persons or families of low income and such facilities as may be incidental or appurtenant thereto;
 - (B) "Redevelopment project" means an undertaking for the acquisition, clearance, replanning, reconstruction, and rehabilitation or a combination of these and other methods, of an area for a residential project, for an incidental commercial project, and for other

- facilities incidental or appurtenant thereto, pursuant to and in accordance with this chapter. The terms "acquisition, clearance, replanning, reconstruction, and rehabilitation" shall include renewal, redevelopment, conservation, restoration, or improvement, or any combination thereof;
- (C) "Commercial project" means an undertaking involving commercial or light industrial development, which includes a mixed use development where commercial or light industrial facilities may be built into, adjacent to, under or above residential units.
- (5) "Project cost" means the total of all costs incurred by the authority in carrying out all undertakings which it deems reasonable and necessary for the development of a project including but not limited to: studies, surveys, plans, and specifications, architectural, engineering, or any other development related services, acquisition of land and any improvement thereon, site preparation and development, construction, reconstruction, and rehabilitation; the necessary expenses in administering the chapter; the cost of financing the project; and relocation costs as provided in chapter 111.
- (6) "Public agency" means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state, or county government.
- (7) "Public facilities" includes streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the district, sites for schools, parks, parking garage, sidewalks, pedestrian ways, and other community facilities.
- (8) "Qualified person" includes any individual, partnership, corporation or any public agency, possessing the competence, expertise, experience, and resources, including financial, personnel and tangible resources, required for the purposes of the project and such other qualifications as may be deemed desirable by the authority in administering the chapter.
- (9) "Real property" means lands, structures, and interests in land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than full title, such as easements, incorporeal hereditaments, and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

Sec. -3. Hawaii community development authority; established.

(a) There is established the Hawaii community development authority, which shall be a body corporate and a public instrumentality of the State, for the purpose of implementing this chapter. The authority shall be placed within the department of planning and economic development for administrative purposes.

(b) The authority shall consist of eleven voting members. The director of finance, the director of planning and economic development, the comptroller, and the director of social services, or their respective designated representatives shall serve as ex officio, voting members. Seven members shall be appointed by the governor for staggered terms pursuant to section 26-34; provided that three

members shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the designated district is situated. If an additional district is designated by the legislature in a county other than the county in which the initial designated district is situated, the total membership of the authority shall be increased as prescribed above by the appointment of three additional members. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

(c) The authority shall appoint the executive director who shall be the chief executive officer. The authority shall set the salary of the executive director, who shall serve at the pleasure of the authority and shall be exempt from chapters 76 and 77.

(d) The authority shall annually elect the chairman and vice chairman from among its members.

(e) The members of the authority appointed under subsection (b) shall serve without compensation, but each shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

Sec. -4. Powers; generally. Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
- (7) Prepare or cause to be prepared, a community development plan for all designated community development districts;
- (8) Acquire, reacquire, or contract to acquire or reacquire by grant or purchase, real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of, or encumber the same;
- (9) Acquire or reacquire by condemnation, real, personal, or mixed property or any interest therein for public facilities including but not limited to streets, sidewalks, parks, schools and other public improvements;
- (10) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of, or encumber any project, and in the case of the

sale of any project, accept a purchase money mortgage in connection therewith; and repurchase or otherwise acquire any project which the authority has theretofore sold, or otherwise conveyed, transferred, or disposed of;

- (11) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;
- (12) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on such terms and conditions as it deems advisable;
- (13) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, designs, or estimates;
- (14) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (15) Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
- (16) Contract for and accept gifts or grants in any form from any public agency, or from any other source;
- (17) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.

Sec. -5 Designation of community development districts; community development plans. (a) The legislature, by statute, may designate an area as a community development district if it determines that there is need for replanning, renewal, or redevelopment of that area. The designation shall describe the boundaries of the district.

(b) After designation, the authority shall develop a community development plan for the designated district. The plan shall include but not be limited to community development guidance policies, district-wide improvement program and community development rules.

(c) The authority may enter into cooperative agreements with qualified persons or public agencies, where the powers, services, and capabilities of such persons or agencies are deemed necessary and appropriate for the development of the community development plan.

(d) Whenever possible, planning activities of the authority shall be coordinated with Federal, State and county plans. Consideration shall be given to State goals and policies, adopted State plan or land use guidance policies, county general plans, development plans, and ordinances.

(e) The authority shall hold a public hearing on a proposed community development plan pursuant to chapter 91 and, after consideration of comments

received and appropriate revision, shall submit the community development plan to the governor for his approval. After approval, the governor shall submit to the legislature, prior to the start of any regular session, the community development plan with a request for appropriation of the required moneys.

(f) The authority may amend the community development plan pursuant to chapter 91 as may be necessary.

Sec. -6 District-wide improvement program. (a) The authority shall develop a district-wide improvement program to identify necessary district-wide public facilities.

(b) The cost of providing district-wide improvements shall be assessed against the properties in the district specially benefiting from such improvements. For the purpose of creating assessment districts the authority shall fix the assessments against lands specially benefited, and may adopt, pursuant to chapter 91, the appropriate provisions of the assessment ordinances of the county in which the project is located with the powers, duties and functions to be performed by the authority, or the authority may establish rules pursuant to chapter 91 for assessing the cost and special benefits of, and payments for district-wide improvements.

(c) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section -16.

Sec. -7 Community development rules. The authority shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The authority may, in the community development plan or by a community development rule, provide that lands within a community development district shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed, or provide other restrictions on the use of the lands.

Sec. -8 Use of public lands; acquisition of state lands. (a) Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside public lands located within community development districts to the authority for its use.

(b) If state lands under the control and management of other public agencies are required by the authority for its purposes, the agency having the control and management of those required lands shall, upon request by the authority and with the approval of the governor, convey, or lease such lands to the authority upon such terms and conditions as may be agreed to by the parties.

(c) Notwithstanding the foregoing, no public lands shall be set aside, conveyed, or leased to the authority as above provided if such setting aside, conveyance, or lease would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department, or board.

Sec. -9 Acquisition of real property from a county. Notwithstanding the provision of any law or charter, any county, by resolution of its local governing body, may, without public auction, sealed bids, or public notice, sell, lease for a term not exceeding sixty-five years, grant or convey to the authority any real property owned by it which the authority certifies to be necessary for its purposes. The sale, lease, grant, or conveyance shall be made with or without consideration and upon such terms and conditions as may be agreed upon by the county and the authority. Certification shall be evidenced by a formal request from the authority. Before the sale, lease, grant, or conveyance may be made to the authority, a public hearing shall be held by the local governing body to consider the same. Notice of the hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by such local governing body.

Sec. -10 Condemnation of real property. The authority upon making a finding that it is necessary to acquire any real property for its immediate or future use for the purposes of this chapter, may acquire the property by condemnation pursuant to chapter 101, including property already devoted to a public use. Such property shall not thereafter be taken for any other public use without the consent of the authority. No award of compensation shall be increased by reason of any increase in the value of real property caused by the designation of a community development district or plan adopted pursuant to a designation, or the actual or proposed acquisition, use or disposition of any other real property by the authority.

Sec. -11 Construction contracts. The authority shall award construction contracts in conformity with the applicable provisions of chapter 103.

Sec. -12 Dedication of facilities as conditions of development. The authority shall establish rules requiring dedication of land or facilities, or cash payments in lieu thereof by developers as a condition of developing real property pursuant to the community development plan. Where state and county dedication laws, ordinances, or rules differ, the provision for greater dedication shall prevail.

Sec. -13 Public projects. Any project or activity of any county or agency of the State in a designated district shall be constructed, renovated, or improved in consultation with the authority.

Sec. -14 Sale or lease of redevelopment projects. The authority may, without recourse to public auction, sell, or lease for a term not exceeding sixty-five years, all or any portion of the real or personal property constituting a redevelopment project to any person, upon such terms and conditions as may be approved by the authority, if the authority finds that the sale or lease is in conformity with the community development plan. One of the terms of the sale shall provide for the repurchase of the property by the authority at its option, in the event that the purchaser, if other than a State agency, desires to sell the property within ten years. The repurchase price shall be the original price at which the property was sold by the authority increased by any improvement to the property, valued at cost, made by the purchaser, and an amount equivalent to

the decline in the purchasing power of the dollar, if any at the time of sale, as measured by the consumer price index or the cost of living index of the United States Bureau of Labor Statistics, as may be applicable, computed from the date of initial purchase or the addition of an improvement by the purchaser less any depreciation measured on a straight line basis. If the purchaser is a state agency, it may include as a term of its sale of the property purchased from the authority, a provision for the repurchase of the property in conformance with this section.

Sec. -15 Residential projects; cooperative agreements. If the authority deems it desirable to develop residential dwelling units for persons or families of low income, it may enter into an agreement with qualified persons to construct, maintain, operate, or otherwise dispose of such units and projects. Sale, lease, or rental of such dwelling units shall be as provided by the rules established by the State housing agency.

Sec. -16 Hawaii community development revolving fund. There is created the Hawaii community development revolving fund into which all receipts and revenues of the authority shall be deposited. Proceeds from the fund shall be used for the purposes of this chapter.

Sec. -17 Exemption from taxation. The authority shall not be required to pay assessments levied by any county, nor shall the authority be required to pay State taxes of any kind.

Sec. -18 Assistance by State and county agencies. Any state or county agency may render services upon request of the authority.

Sec. -19 Annual report. The authority shall submit to the governor and the legislature, at least twenty days prior to the start of any regular session, a complete and detailed report of its activities.

Sec. -20 Court proceedings; preferences; venue. Any action or proceeding to which the authority, the State or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil causes, except election cases, in any court of this State and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene.

Sec. -21 Issuance of bonds. The director of finance may, from time to time, issue general obligation bonds pursuant to chapter 39 in such amounts as may be authorized by the legislature, for the purposes of this chapter.

PART II. KAKAAKO COMMUNITY DEVELOPMENT DISTRICT

Sec. -31 Kakaako community development district; purposes. The legislature finds that:

- (1) The Kakaako district is centrally located in Honolulu proper, in close proximity to the central business district, the government center, commercial industrial and market facilities, major existing and con-

- templated transportation routes and recreational and service areas;
- (2) Due to its present function as a service and light industrial area, the district is relatively underdeveloped and has especially in view of its proximity to the urban core where the pressure for all land uses is strong the potential for increased growth and development that can alleviate community needs such as low-income housing, parks and open space, and commercial and industrial facilities;
 - (3) The district, if not redeveloped or renewed, has the potential to become a blighted and deteriorated area. Due to its present economic importance to the State in terms of industry and subsequent employment, there is a need to preserve and enhance its value and potential;
 - (4) Kakaako has a potential, if properly developed and improved, to become a planned new community in consonance with surrounding urban areas.

In coordinating community development in the Kakaako district, the authority shall plan a mixed-use district whereby industrial, commercial, residential, and public uses may coexist compatibly within the same area.

The authority shall plan for the above uses, but shall also respect and support the present function of Kakaako as a major economic center, providing significant employment in such areas as light industrial, wholesaling, service, and commercial activity.

Sec. -32 District; established, boundaries. The Kakaako community development district is established. The district shall include that area bounded by King street, Piikoi street from its intersection with King street to Ala Moana boulevard, Ala Moana boulevard from Piikoi street to its intersection with Punchbowl street, and Punchbowl street to its intersection with King street.

Sec. -33 Kakaako community development district; development guidance policies. The following shall be the development guidance policies generally governing the authority's action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district;
- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which meet reasonable performance standards;
- (3) Activities shall be located so as to provide primary reliance on public transportation and pedestrian facilities for internal circulation within the district or designated subareas;
- (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review;
- (5) Redevelopment of the district shall be compatible with plans and

- special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;
- (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
- (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
- (8) Residential development shall ensure a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income shall be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, community meeting places, child care centers, and other services, within and adjacent to residential development;
- (9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon approval.

(Approved May 27, 1976.)

ACT 154

H.B. NO. 2786-76

A Bill for an Act Relating to Deferred Acceptance of Guilty Pleas.

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

SECTION 1. The legislature finds and declares that in certain criminal cases, particularly those involving first time, accidental, or situational offenders, it is in the best interest of the State and the defendant that the defendant be given the opportunity to keep his record free of a criminal conviction, if he can comply with certain terms and conditions during a period designated by court order. Especially where youth is involved, a record free of a felony conviction, which would foreclose certain educational, professional, and job opportunities may, in a proper case, be more conducive to offender rehabilitation and crime prevention than the deterrent effects of a conviction and sentence.

The purpose of this Act is to establish a means whereby a court in its discretion may defer acceptance of a guilty plea for a certain period on certain conditions with respect to certain defendants. The completion of such period in compliance with such conditions may then result in the discharge of the defendant and expungement of the matter from his record.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to title 38 to be appropriately designated and to read as follows:

**“CHAPTER
CRIMINAL PROCEDURE: DEFERRED ACCEPTANCE
OF GUILTY PLEA”**

Sec. -1 Deferred acceptance of guilty plea, discharge and dismissal, expungement of records. (a) Upon proper motion as provided by this chapter:

- (1) When a defendant voluntarily pleads guilty to a felony or misdemeanor or petty misdemeanor;
- (2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and
- (3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law,

the court, without entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further proceeding.

(b) The proceedings may be deferred upon any of the conditions specified by section -624, Hawaii Penal Code. The court may defer the proceedings for such period of time as the court shall direct but in no case to exceed the maximum sentence allowable. The defendant may be subject to bail or recognizance at the court's discretion during the period which the proceedings are deferred.

(c) Upon his completion of the period designated by the court and in compliance with the terms and conditions established, the court shall discharge the defendant and dismiss the charge against him.

(d) Discharge of the defendant and dismissal of the charge against him under this section shall be without adjudication of guilt, shall eliminate any civil admission of guilt, and is not a conviction.

(e) Upon discharge of the defendant and dismissal of the charge against him under this section, the defendant may apply for expungement, pursuant to Section 831-3.2, Hawaii Revised Statutes, from all official records all recordation relating to his arrest, arraignment, indictment, information, plea of guilty, or dismissal and discharge, except that all records of his arrest, arraignment, indictment, information, plea of guilty, or dismissal and discharge shall be preserved at the police department of the county where the offense occurred, in the case of misdemeanors, and at the office of the Attorney General in the case of felonies, and made accessible to the adult probation division and any court for purposes of sentencing for any offense committed by the defendant.

Sec. -2 Plea of guilty; procedure. Upon motion made before sentence by the defendant, the prosecutor, or on its own motion, the court will either proceed in accordance with section -1, or deny the motion and accept the defendant's plea of guilty, or allow the defendant to withdraw his plea of guilty only for good cause.

Sec. -3 Violation of terms and conditions during deferment; result.

Upon violation of a term or condition set by the court for a deferred acceptance of guilty plea, the court may enter an adjudication of guilt and proceed as otherwise provided.

Sec. -4 Chapter not applicable; when. This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or grossly negligent killing of another person;
- (2) The offense charged involves the cruel or reckless bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct which if perpetrated in this state would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct which if perpetrated in this state would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction.

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

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

(Approved May 27, 1976.)

ACT 155

H. B. NO. 2904-76

A Bill for an Act Relating to Occupational Safety and Health.

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

SECTION 1. Chapter 396, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read:

"Sec. 396- Exception to liability. Any employee who is required by the regulations under this chapter to be trained and certified in first aid, and consequently renders first aid care as provided by this chapter, shall not be liable for any civil damages resulting from his acts or omissions, except for such damages as may result from his gross negligence or wanton acts or omissions."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 27, 1976.)

*Edited accordingly.

A Bill for an Act Relating to Prepaid Legal Services.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER PREPAID LEGAL SERVICES”

Sec. -1 Definitions. As used in this chapter:

- (1) “Department” means the department of regulatory agencies.
- (2) “Plan administrator” means those persons who have discretionary authority for the management of the plan or for the collection, management, or disbursement of plan moneys.
- (3) “Prepaid legal service plan” (“Plan”) means a group legal service plan in which the cost of the services are prepaid by the group member or by some other person or organization in the member’s behalf. A group legal service plan is a plan by which legal services are rendered to individual members of a group identifiable in terms of some common interest. A plan shall provide:
 - (A) That individual members shall be afforded freedom of choice in the selection of their own attorney or attorneys to provide legal services under such plan.
 - (B) For the payment of equal amounts for the cost of services rendered without regard to the identity of the attorney or attorneys selected by the plan member or members. No plan shall otherwise discriminate on the basis of such selection.

Sec. -2 Applicability; other statutes, rules of court.

- (a) This chapter shall apply to all plans in the State other than:
 - (1) Plans in which either the group or the plan administrator is otherwise subject to regulation under chapter 431 or 433.
 - (2) Plans in which any party to the plan is the federal government or any agency thereof.
 - (3) Any employer-employee plan which is subject to the federal Employee Retirement Income Security Act of 1974, Public Law 93-406.
- (b) The operation of all plans subject to this chapter shall also be subject to chapters 480, 481, part I, 481A, and 481B, and other provisions of law which may be applicable. Chapters 431, 433, and 434 shall not apply to any plans or the operations thereof which are subject to this chapter, except as provided in sections -5 and -6.
- (c) No plan subject to this chapter shall contravene Rules of Court adopted by the Hawaii supreme court.

Sec. -3 Filing and other requirements. Sixty days prior to the implementation of any plan and the accumulation or payment of money thereunder, all

plan documents shall be submitted in writing to the department. Such documentation shall contain in writing the following:

- (1) A brief statement of the plan's financial structure, including a statement of the amount of prepayment, and other charges or dues to be paid by plan members and the manner in which such amount is to be paid.
- (2) A statement of the amount of benefits, legal services, or reimbursement for legal services to be furnished each member of a plan, and the period during which it will be furnished; and, if there are exceptions, reductions, exclusions, limitations, or restrictions of such benefits, legal services, or reimbursements, a detailed statement of such exceptions, reductions, exclusions, limitations, or restrictions.
- (3) A statement of the terms and conditions upon which the plan may be canceled or otherwise terminated by the group, the plan administrator, the persons furnishing legal services, or the member; provided that for any such cancellation or termination, other than by a member, there shall be provision made for the disposition of funds accumulated under the plan.
- (4) A statement describing the applicability or nonapplicability of the benefits of the plan to the family dependents of the member.
- (5) A statement of the period of grace which will be allowed the member or his group for making any payment due under the plan.
- (6) A statement describing a procedure for settling disputes between or among the group, the plan administrator, the persons furnishing legal services, and the member.
- (7) A statement that the plan includes the endorsements thereon and attached papers, if any, and contains the entire contract or contracts to be used between all parties to a plan.

Any amendments or changes to the documents filed under paragraphs (1) to (7) shall be filed with the department sixty days before they take effect. All documents filed under this section shall be public documents.

Sec. -4 Accumulated funds, protection, violation. Any plan which accumulates funds prior to the payment of such funds to the persons providing legal services shall meet the requirements of this section.

The plan administrator shall obtain a bond in an amount and form approved by the department which shall be executed by the plan administrator and a surety company authorized to do business in the State as a surety. The bond shall be to the benefit of the members of the plan and shall be filed with the department. In lieu of the bond required by this section, the department shall accept letters of credit, certificates of deposits, or other evidences of security in form and amounts deemed appropriate by the department.

In administering this chapter and this section in particular, it is the intention of the legislature to encourage the formation and operation of prepaid legal service plans. Therefore, all efforts shall be made by the department in determining the amount or type of security required to meet such legislative intent to encourage the formation of prepaid legal service plans.

Sec. -5 Annual exhibits; examination by director. Each plan shall file with the director of regulatory agencies within thirty days after the end of its fiscal year a statement under oath in such form as the director prescribes containing:

- (1) A statement setting forth the total amount of gross receipts and expenditures of the plan during its fiscal year;
- (2) The assets and liabilities of the plan at the close of its fiscal year; and
- (3) The profit and loss of the plan during its fiscal year.

The powers, authorities, and duties relating to examinations vested in and imposed upon the insurance commissioner under chapter 431 are extended to and imposed upon the director in respect to examinations of the plans; provided that no examination shall attempt to obtain or inspect written or oral information or documents in violation of the attorney-client privilege as it is contained in the Code of Professional Responsibility adopted by the supreme court.

Sec. -6 Investments of certain plans. No plan promising or offering to pay for legal services in an amount equal to or in excess of \$25 a year shall invest any of its assets other than as authorized and provided for in respect to domestic insurance companies and societies under chapter 431, which provisions are hereby extended to and made applicable to prepaid legal service plans.

Sec. -7 Failure to comply; penalty. Any plan which neglects or refuses to comply with this chapter shall be notified in writing by the director of regulatory agencies of the neglect or refusal and to take corrective action; if the neglect or refusal continues for seven days after notification, the plan, group, or plan administrator may be fined not more than \$1,000. Every day's neglect or refusal after the expiration of seven days shall be a separate offense."

SECTION 2. Section 431-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following contracts are not considered to be insurance for the purposes of this chapter:

- (1) A title insurance contract;
- (2) A bond with respect to which no premium is charged or paid;
- (3) A bond or contract or undertaking in the performance of which the surety has an interest other than that of surety;
- (4) A plan or agreement between an employer and any employee or his representative, individually or collectively, by the terms of which the employer or the parties to the plan or agreement agree to contribute to the cost of nonoccupational disability benefits, medical attention, treatment, or hospitalization for the employee or members of his family unless such plan is underwritten by an insurer as defined in this chapter;
- (5) A prepaid legal service plan as defined in chapter other than plans in which either the group offering the plan or the person administering the plan is otherwise subject to this chapter."

SECTION 3. Section 433-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 433-1 Definition; exemption. Any corporation, unincorporated association, society, or entity

- (1) Organized and carried on for the primary benefit of its members and their beneficiaries and not for profit, and making provision for the payment of benefits in case of sickness, disability, or death to its members or disability or death of its members' wives or children, or making provision for the payment of any other benefits to or for its members, whether or not the amount of the benefits is fixed or rests in the discretion of the society, its officers, or any other person or persons, the fund from which the payment of the 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; or
- (2) Organized and carried on for any purpose, which regularly requires money to be paid to it by its members, whether the 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 their relatives, or to any person or persons named by its members as their beneficiaries, or to any class of persons which includes or may include its members, whether or not the amount or value of the benefit, benefits, money, or thing of value is fixed, or rests in the discretion of the society, its officers, or any other person or persons; or
- (3) Organized and carried on for any purpose, whose requirements and provisions although not identical with are determined by the insurance commissioner to be substantially similar to those enumerated in (1) and (2) above,

is, for the purpose hereof, a mutual benefit society; provided that participating in a prepaid legal service plan subject to chapter shall not in itself make a corporation, unincorporated association, society, or entity a mutual benefit society and subject to this chapter. It shall be deemed to be a fiduciary company within the meaning of section 402-1 and shall, in all respects, unless otherwise specifically provided, be subject to part I of chapter 402, relating to fiduciary companies. Such society shall be exempt from the insurance laws of the State, except as hereinafter provided."

SECTION 4. Section 434-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 434-1 Scope of chapter. This chapter relates only to fraternal benefit societies as hereinafter defined which desire to be authorized to pay benefits in accordance with this chapter after July 10, 1961. It shall not be deemed to apply to mutual benefit societies existing or exempted under chapter 433, and any mutual benefit society existing and authorized to pay benefits pursuant to chapter 433 on July 9, 1961, may continue to be so authorized and shall continue to be regulated or exempted by chapter 433. It shall not apply to prepaid legal service plans subject to chapter even though the plan may be offered by a fraternal benefit society."

SECTION 5. Section 235-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“ “Prepaid legal service plan” (“Plan”) means a group legal service plan in which the cost of the services are prepaid by the group member or by some other person or organization in the member’s behalf. A group legal service plan is a plan by which legal services are rendered to individual members of a group identifiable in terms of some common interest. A plan shall provide:

- (A) That individual members shall be afforded freedom of choice in the selection of their own attorney or attorneys to provide legal services under such plan.
- (B) For the payment of equal amounts for the cost of services rendered without regard to the identity of the attorney or attorneys selected by the plan member or members. No plan shall otherwise discriminate on the basis of such selection.”

SECTION 6. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or state treasury or paid by an employer or by a trust or other means provided by an employer);
- (4) Compensation paid to a patient affected with leprosy employed by the State or the United States in any hospital, settlement, or place for the treatment of leprosy;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) All proceeds received by organizations enumerated under section 237-23(6) to (9), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (7) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion;

- (8) The \$500 received by each member of the reserve components of the army, navy, air force, marine corps, coast guard of the United States of America and the Hawaii national guard as compensation for performance of duty as such;
- (9) Income derived from the operation of ships or aircraft if such income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country, provided, that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft which are documented or registered under the laws of the United States;
- (10) The value of legal services provided by a prepaid legal service plan to a taxpayer, his spouse, and his dependents;
- (11) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, his spouse, and his dependents;
- (12) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to his employees for the costs of legal services incurred by his employees, their spouses, and their dependents."

SECTION 7. Section 235-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in sections 235-61 to 235-67 relating to withholding and collection of tax at source, and section 235-10 relating to "unrelated business taxable income", the following persons and organizations shall not be taxable under this chapter:

- (1) Banks, building and loan associations, and industrial loan companies taxable under chapter 241; and insurance companies and agricultural cooperative associations, exclusively taxable under other laws;
- (2) Corporations, companies, associations, or trusts conducted solely for charitable, religious, educational, prepaid legal services, or scientific purposes within the State, including fraternal beneficiary societies;
- (3) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries, no part of the net earnings of which inures to the financial benefit of any private shareholder or individual;
- (4) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (5) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare which shall include the operation of a prepaid legal service plan, or local associations of employees, the membership of which is limited to the employees of a designated person or persons, and the net earnings of which are devoted exclusively to charitable, educational, prepaid legal service, or

- recreational purposes within the State;
- (6) Labor organizations;
 - (7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholder;
 - (8) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries, and which meets the requirements of the Internal Revenue Code for exemption from the tax thereby imposed."

SECTION 8. Section 235-10, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 235-10 Unrelated business taxable income. The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this section the term "taxable income" as used in sections 235-58 and 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan."

SECTION 9. Section 237-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Prepaid legal service plan" ("Plan") means a group legal service plan in which the cost of the services are prepaid by the group member or by some other person or organization in the member's behalf. A group legal service plan is a plan by which legal services are rendered to individual members of a group identifiable in terms of some common interest. A plan shall provide:

- (A) That individual members shall be afforded freedom of choice in the selection of their own attorney or attorneys to provide legal services under such plan.
- (B) For the payment of equal amounts for the cost of services rendered without regard to the identity of the attorney or attorneys selected by the plan member or members. No plan shall otherwise discriminate on the basis of such selection."

SECTION 10. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) This chapter shall not apply to the following persons:
 - (1) Banks taxable under chapter 241;
 - (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax

- imposed by chapter 239;
- (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
 - (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
 - (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
 - (6) Corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as well as that of operating a prepaid legal service plan;
 - (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
 - (8) Hospitals, infirmaries, and sanitaria;
 - (9) Cooperative associations now or hereafter incorporated under and pursuant to chapter 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that the exemption shall apply only to the gross income derived from its activities authorized by chapter 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);
 - (10) Building and loan associations taxable under chapter 241;
 - (11) Persons affected with leprosy and kokuas, with respect to business within the county of Kalawao;
 - (12) Corporations, companies, associations, or trust organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided, that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
 - (13) Industrial loan companies taxable under chapter 241, provided that the

ACT 157

- exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- (14) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by State funds;
 - (15) Local development companies incorporated under the laws of the State and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, provided that the exemption shall apply only with respect to gross income derived as interest on loans made to borrowers from loan funds obtained from the Small Business Administration but only if the loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation;
 - (16) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations."

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 12. This Act shall take effect upon its approval; provided that sections 5, 6, 7, and 8 shall apply to calendar years beginning after December 31, 1975 and that sections 9 and 10 shall take effect on July 1, 1976.

(Approved May 27, 1976.)

ACT 157

S.B. NO. 2326-76

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-1, Hawaii Revised Statutes, is amended to read:

"Sec. 383-1 Definitions, generally. As used in this chapter, unless the context clearly requires otherwise:

- (1) "Base period" with respect to benefit years beginning after June 30, 1951, means the four completed calendar quarters immediately preceding the first day of an individual's benefit year.
- (2) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to his unemployment.
- (3) "Benefit year" with respect to any individual means the one-year 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 one-year 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 383-32 shall be deemed a "valid claim" for

*Edited accordingly.

the purpose of this paragraph if the individual has satisfied the conditions required under section 383-29(5). Nothing in sections 383-29 and 383-30, except subsection 383-29(5) shall affect the filing of a "valid claim" or the establishment of a "benefit year". For the purposes of this paragraph a week with respect to which an individual files a valid claim shall be deemed to be "in", "within", or "during" that benefit year which includes the greater part of such week.

- (4) "Department" means the department of labor and industrial relations.
- (5) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof, as the department may by regulation prescribe.
- (6) "Director" means the director of labor and industrial relations of the State.
- (7) "Contributions" means the money payments required by this chapter to be made into the state unemployment compensation fund by any employing unit on account of having individuals in its employ.
- (8) "Employing unit" means any individual or type of organization, including the State, any of its political subdivisions, any instrumentality of the State or its political subdivisions, 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 of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had one or more individuals performing services for it within this State.
 - (A) All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be performing services for a single employing unit for all the purposes of this chapter.
 - (B) Each individual employed to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by the employing unit for all the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work.
- (9) "Employer" means:
 - (A) Any employing unit which for some portion of a day within the current calendar year has or had in employment one or more individuals; and
 - (B) For the effective period of its election pursuant to section 383-77, any other employing unit which has elected to become subject to this chapter.
- (10) "Employment office" means a free public employment office or branch thereof operated by the State or any other state as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices.

- (11) "Federal Unemployment Tax Act" means chapter 23 of subtitle C of the Internal Revenue Code of 1954.
- (12) "Fund" means the unemployment compensation fund established by this chapter.
- (13) "Insured work" means employment for employers.
- (14) "Referee" means the referee for unemployment compensation appeals.
- (15) "State" includes, in addition to the states of the United States, the District of Columbia, Puerto Rico, and Virgin Islands.
- (16) "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 department 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 department deems necessary. "Week of unemployment" means a week in which an individual is deemed unemployed.
- (17) "Week" means any period of seven consecutive days as the department may by regulation prescribe.
- (18) "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.
- (19) "Weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week for one or more employers subject to this chapter or with respect to which he has received remuneration from one or more employers subject to this chapter in form of vacation, holiday, or sickness pay or similar remuneration."

SECTION 2. Section 383-30, Hawaii Revised Statutes, is amended to read:

"Sec. 383-30 Disqualification for benefits. An individual shall be disqualified for benefits:

- (1) Voluntary separation. For any week in which he has left his work voluntarily without good cause, and continuing until he has, subsequent to the week in which the voluntary separation occurred, been employed for at least five consecutive weeks of employment. For the purposes of this subsection, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.

- (2) Discharge or suspension for misconduct. For the week in which he has been discharged or suspended for misconduct connected with his work, and continuing until he has, subsequent to the week in which the discharge or suspension occurred, been employed for at least five consecutive weeks of employment. For the purposes of this subsection, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
- (3) Failure to apply for work, etc. For the week in which he failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered him and continuing until he has, subsequent to the week in which the failure occurred, been employed for at least five consecutive weeks of employment. For the purposes of this subsection, "weeks of employment" means all those weeks within each of which the individual has performed services in employment for not less than two days or four hours per week, for one or more employers, whether or not such employers are subject to this chapter.
 - (A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3) (B) of this section, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under paragraph (1) of this section.
 - (B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
 - (i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
 - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
 - (iii) 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.
- (4) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed; provided that this paragraph shall not apply

if it is shown that:

- (A) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - (B) He 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 directly interested in the dispute; provided that, 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 subsection, be deemed to be a separate factory, establishment or other premises.
- (5) If the department finds that he has within the twenty-four calendar months immediately preceding any week of his unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, he shall be disqualified for benefits beginning with the week in which the department makes the determination and for each consecutive week during the current and subsequent twenty-four calendar months immediately following such determination, and such individual shall not be entitled to any benefit under this chapter for the duration of such period; provided, that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141.
- (6) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, except the agricultural unemployment compensation law, chapter 384, but this paragraph shall not apply (A) if the appropriate agency finally determined that he is not entitled to benefits under such other law, or (B) if benefits are payable to him under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law."

SECTION 3. Section 383-61, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read:

"(b) For the purposes of this part, the term "wages" does not include remuneration paid with respect to employment to an individual by an employer during any calendar year which exceeds the average annual wage, rounded to the nearest hundred dollars, for the four calendar quarter period ending on June 30 of the preceding year. The average annual wage shall be computed as follows: on or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of such year shall be divided by the average monthly number of individuals performing services in such employment during the same four calendar quarters as reported on such contribution reports.

(c) If an employer during any calendar year acquires substantially all the property used in a trade or business, or in a separate unit of a trade or business, if another employer, and after the acquisition employs an individual who prior to the acquisition employs an individual who prior to the acquisition was employed by such predecessor, then for the purpose of determining whether such remuneration in excess of the average annual wages has been paid for such employment to the individual, remuneration paid to the individual by such predecessor during the calendar year shall be considered as having been paid by the successor employer. For the purposes of this subsection, the term "employment" includes services constituting employment under any employment security law of another state or of the federal government."

SECTION 4. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) In lieu of contribution required of employers under this chapter, the State and its political subdivisions and instrumentalities (hereinafter referred to as "governmental employers" or "governmental employer" as the case may be) shall pay in advance to the director of labor and industrial relations for the fund an amount equivalent to the amount of regular benefits plus one-half the amount of extended benefits payable in each calendar quarter to individuals based on wages paid by governmental employers. The director shall notify each governmental employer of the amount of money required to be paid to him. Such amounts shall be paid to the director prior to the commencement of the calendar quarter in which benefits are payable.

If benefits paid an individual are based on wages paid by one or more governmental employers and one or more other employers, or on wages paid by two or more employers, or on wages paid by two or more governmental employers, the amount payable by a governmental employer to the director for the fund shall be in accordance with the provisions of subsection (d) of this section, governing the allocation of benefit costs among employers liable for payments in lieu of contributions and between such employers and employers liable for contributions.

For the purposes of subsection (d), governmental employers are employers liable for payments in lieu of contributions. The amount of payment required from governmental employers shall be ascertained by the department of labor and industrial relations and shall be paid from the general funds of such governmental employers upon approval by the comptroller of the State or the director of finance of the respective counties, except that to the extent that benefits are paid on the basis of wages paid by governmental employers from special administrative funds, the payment into the unemployment compensation fund shall be made from such special funds."

SECTION 5. Section 383-65, Hawaii Revised Statutes, is amended to read:

"Sec. 383-65 Charges and noncharges for benefits. (a) Except as otherwise provided in this section, benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio

to the total benefits paid to the individual as the base period wages paid to the individual by the employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid in benefit years beginning after June 30, 1963 shall be charged to employers' accounts in the calendar year in which the benefits are paid.

(b) Benefits paid to an individual, who, during his base period, earned wages for part-time employment with an employer, shall not be charged to the account of the employer if he continues to give the individual employment to the same extent while he is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the director of labor and industrial relations.

(c) Benefits paid to an individual for the period he is enrolled in and is in regular attendance at a vocational training or retraining course approved by the director pursuant to section 383-29 shall not be charged to any of his base period employers.

(d) For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, "base period" as used in this section shall mean the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws.

(e) Benefits paid to an individual under the provisions of the extended benefits program, sections 383-168 to 383-174, of this chapter, shall not be charged to the account of any of his base period employers on a contributory plan. Provisions of section 383-62(b) and 383-62(c) (2) (A) will apply in the reimbursement of benefits which are paid to an individual who, during his base period, was employed by a governmental employer or a nonprofit organization electing payment in lieu of contributions.

(f) Benefits paid to an individual who qualifies to receive benefits by meeting the minimum earnings and employment requirements only by combining his employment and wages earned in two or more states shall not be charged to the reserve account of any base period employer on a contributory plan within this State.

(g) Any benefit overpaid to a claimant as a result of ineligibility or disqualification under sections 383-29 and 383-30 shall not be charged to the reserve account of a base period employer on a contributory plan unless such overpayment resulted from the employer's failure to furnish information as required by this chapter or the rules and regulations of the department."

SECTION 6. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"Sec. 383-62 Rate of contributions; financing benefits paid to government employees and employees of nonprofit organizations. (a) Each employer shall pay contributions equal to three per cent of wages paid by him during each calendar year with respect to employment except as otherwise prescribed in this part.

For the calendar year 1977 each employer shall pay contributions equal to three and one-half per cent (3.5%) of wages paid by him during such calendar year.

SECTION 7. Section 383-94, Hawaii Revised Statutes, is amended to read:

"Sec. 383-94 Records and reports. Each employing unit shall keep true and accurate work records, for such periods of time and containing such information as the department of labor and industrial relations may prescribe. The records shall be open to inspection and be subject to being copied by the authorized representatives of the department at any reasonable time and as often as may be necessary. Any authorized representative of the department, or the referee, may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which such authorized representative, or the referee, deems necessary for the effective administration of this chapter.

Each employer shall report all new employees hired subject to procedures prescribed by the department, within five working days after the first day of employment of such individual. Each employer shall report separation of any employee and the wages paid to such employee within five working days after the last day of employment.

If any employer fails to report with respect to a newly hired employee within five working days after the first day of employment, or the separation of an individual or the remuneration which he paid to the individual within five working days after termination of the individual or after mailing of notice from the department by registered or certified mail so to do, he shall pay a penalty in the amount of \$10. The penalty shall be assessed, collected, and paid into the fund in the same manner as contributions. The director may, in a case of excusable failure to file the report within the required time, remit the penalty."

SECTION 8. Not used.

SECTION 9. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 10. This Act shall take effect on July 15, 1976 except that the amendments to sections 383-61 and 383-62(a) shall take effect on January 1, 1977.

(Approved May 27, 1976.)

ACT 158

S.B. NO. 2715-76

A Bill for an Act Relating to Stadium Authority.

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

SECTION 1. Section 109-2, Hawaii Revised Statutes, is amended to read:

"Sec. 109-2 Stadium authority; powers and duties. The powers and duties of the stadium authority shall be as follows:

(1) To maintain, operate and manage the stadium and related facilities.

*Edited accordingly.

- (2) To prescribe and collect rents, fees and charges for the use or enjoyment of the stadium or any of its facilities.
- (3) To make and execute contracts and other instruments necessary or convenient to exercise its powers under this chapter and subject to any limitations in this chapter, to exercise all powers necessary, incidental or convenient to carry out and effectuate the purposes and provisions of this chapter.
- (4) To make, amend and repeal in accordance with chapter 91 such rules and regulations as it may deem necessary.
- (5) To appoint a manager and a deputy manager who shall have such qualifications as the authority deems necessary and who shall hold their respective offices at the pleasure of the authority. The manager and deputy manager shall be exempt from the requirements of chapters 76 and 77 and shall receive such salary as the authority may provide; except that the manager's salary shall not exceed the maximum salary provided for department heads of the State and the deputy manager's salary shall not be more than ninety percent of the manager's salary. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the authority. The manager shall, subject to the approval of the authority, have power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the authority. Except for persons hired on contract or otherwise as provided in section 109-3 and except for the manager and deputy manager, all appointments, suspensions or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77."

SECTION 2. All full-time employees currently not in civil service shall be converted to civil service status within the meaning of chapters 76 and 77 without the necessity of examination and shall be accorded all the rights, benefits and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. Positions held by such employees shall be allocated to the appropriate classes in the position classification plan and employees affected shall continue to receive at least the same rates of pay despite the change in status, provided that subsequent changes in position classification and pay may be made pursuant to applicable personnel laws.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 4. This Act shall take effect on January 1, 1977.

(Approved May 27, 1976.)

*Edited accordingly.

A Bill for an Act Relating to Discrimination Against the Physically Handicapped.

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

SECTION 1. Section 171-64, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-64 Covenants against discrimination. The board of land and natural resources shall provide in every patent, deed, lease, agreement, license, or permit that the use and enjoyment of the premises being granted shall not be in support of any policy which discriminates against anyone based upon race, creed, color, national origin, or a physical handicap. The board shall not dispose of any public land to any person who practices discrimination based upon race, creed, color, national origin, or a physical handicap. As used in this section "physical handicap" means a physical impairment which substantially limits one or more of a person's major life activities."

SECTION 2. Section 304-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 304-1 Establishment; available to all. There shall be a University of Hawaii which shall consist of such colleges and departments as may from time to time be established.

No person shall, because of sex, color, nationality, or a physical handicap, be deprived of the privileges of this institution. As used in this section "physical handicap" means a physical impairment which substantially limits one or more of a person's major life activities."

SECTION 3. Section 515-2, Hawaii Revised Statutes, is amended by adding a new definition to read as follows:

"(7)"Physical handicap" means a physical impairment which substantially limits one or more of a person's major life activities."

SECTION 4. Section 515-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 515-3 Discriminatory practices. It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of race, sex, color, religion, marital status, ancestry, or a physical handicap:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring

- a property listing to his attention, or to refuse to permit him to inspect real property;
- (6) To print, circulate, post, or mail, or cause to be so published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto; or
- (7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith."

SECTION 5. Section 515-5, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 515-5 Discriminatory financial practices. It is a discriminatory practice for a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person:

- (1) To discriminate against the applicant because of race, sex, color, religion, ancestry, or a physical handicap;
- (2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, sex, color, religion, ancestry, or a physical handicap."

SECTION 6. Section 515-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, sex, color, religion, ancestry, or with a physical handicap is void.

(b) Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, sex, color, religion, ancestry, or a physical handicap, is void, except a limitation of use on the basis of religion or sex of real property held by a religious institution or organization or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purpose."

SECTION 7. Section 515-7, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 515-7 Blockbusting. It is a discriminatory practice for a person, for the purpose of inducing a real estate transaction from which he may benefit financially:

- (1) To represent that a change has occurred or will or may occur in the composition with respect to race, sex, color, religion, ancestry, or a

- physical handicap of the owners or occupants in the block, neighborhood, or area in which the real property is located, or
- (2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located."

SECTION 8. Section 516-62, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 516-62 Discrimination. No person shall be denied the right to become a lessee of a residential lot, because of his race, religion, sex, ancestry, or a physical handicap."

SECTION 9. Section 612-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 612-2 Prohibition of discrimination. A citizen shall not be excluded from jury service in this State on account of race, color, religion, sex, national origin, economic status, or on account of a physical handicap except as provided in section 612-4(3)."

SECTION 10. Section 612-3, Hawaii Revised Statutes, is amended by adding a new definition to read:

"(5)"Physical handicap" means a physical impairment which substantially limits one or more of a person's major life activities."

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 12. This Act shall take effect upon its approval.

(Approved May 27, 1976.)

ACT 160

S.B. NO. 2819-76

A Bill for an Act Relating to the Hawaii Public Broadcasting Authority.

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

SECTION 1. Section 314-17, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 314-17 Compensation. Employees of the Hawaii public broadcasting authority shall be compensated in their respective categories as follows:

- (1) Category (a)—clerical, nonprofessional and nontechnical. All employees in this category shall be compensated in accordance with chapter 77.
- (2) Category (b)—professional and technical. All employees in this category who are determined by the director of personnel services to be

*Edited accordingly.

ACT 161

subject to chapter 76 shall be compensated in accordance with chapter 77. All other employees in this category who are determined to be exempted from chapters 76 and 77 shall be compensated in accordance with an annual employment contract.

(3) Category (c)—student help. All persons in this category shall be compensated in accordance with student help wage rates.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 27, 1976.)

ACT 161

S.B. NO. 2958-76

A Bill for an Act Relating to Comparative Negligence.

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

SECTION 1. Section 663-31, Hawaii Revised Statutes, is hereby amended to read as follows:

“Sec. 663-31 Contributory negligence no bar; comparative negligence; findings of fact and special verdicts. (a) Contributory negligence shall not bar recovery in action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not greater than the negligence of the person or in the case of more than one person, the aggregate negligence of such persons against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damage or death recovery is made.

(b) In any action to which subsection (a) of this section applies, the court, in a nonjury trial, shall make findings of fact or, in a jury trial, the jury shall return a special verdict which shall state:

(1) The amount of the damages which would have been recoverable if there had been no contributory negligence; and

(2) The degree of negligence of each party, expressed as a percentage.

(c) Upon the making of the findings of fact or the return of a special verdict, as is contemplated by subsection (b) above, the court shall reduce the amount of the award in proportion to the amount of negligence attributable to the person for whose injury, damage or death recovery is made; provided that if the said proportion is greater than the negligence of the person or in the case of more than one person, the aggregate negligence of such persons against whom recovery is sought, the court will enter a judgment for the defendant.

(d) The court shall instruct the jury regarding the law of comparative negligence where appropriate.”

*Edited accordingly.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 27, 1976.)

ACT 162

H.B. NO. 1776

A Bill for an Act Relating to Citizenship and Residence Requirements for Government Officials and Employees and Amending Chapter 78, Hawaii Revised Statutes.

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

SECTION 1. Section 78-1, Hawaii Revised Statutes, is hereby amended to read as follows:

"78-1 Citizenship and residence of government officials and employees; exemptions. (a) All officers, whether elective or appointive, in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding their appointment.

(b) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be residents of the State and a citizen, national or permanent resident alien of the United States.

(c) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (b) applies within forty-five days after the first publication of an advertisement of the position or a notice of an examination therefor, which advertisement or notice has been published more than once, and not oftener than once a week, in a newspaper of general circulation in the State, a person without the qualifications may, upon prior certification by the state director of personnel services or the city and county director of civil service or the county personnel director, whichever is applicable, and with the approval of the chief executive officer for the State or the political subdivision concerned, be employed.

(d) The requirement of subsection (b) of residence shall not apply to a female resident who marries a non-resident and continues to reside in the State.

(e) For those positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States.

SECTION 2. Statutory materials to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 27, 1976.)

*Edited accordingly.

ACT 163

ACT 163

H.B. NO. 1801

A Bill for an Act Relating to Highways.

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

SECTION 1. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 264- Public hearing. Any state or county agency which prepares proposed plans for a major public highway project shall provide an opportunity for a public hearing at the earliest practicable time before the proposed plans for the project are finalized and commitments have been made by the state or county to the plans or the project. The public hearing shall be conducted and notice given in an adequate manner to apprise all interested persons of the proposed routes and scope of the projects and allow an opportunity for all interested persons to submit data, views, or arguments, orally or in writing. The public hearing required under this section may be held in conjunction with a public hearing held on the project to meet the requirement of any federal, state or county law provided the provisions of this section are satisfied.

The proposing agency shall satisfy any requirement for holding a public hearing under this section if adequate notice of the opportunity for the public hearing on the project is given to interested persons and no written requests for the hearing are received by the agency within a reasonable time.

This section shall not apply to the construction of highway projects where the governor has made a formal determination that the construction of the project is urgently needed because of an emergency, a natural disaster, or a catastrophic failure."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 27, 1976.)

ACT 164

H.B. NO. 2371-76

A Bill for an Act Relating to Emancipation of Certain Minors.

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

SECTION 1. Chapter 577, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 577- Emancipation of certain minors. Any law to the contrary notwithstanding, a minor who has been married pursuant to chapter 572 shall be deemed to be emancipated and shall be regarded as though he or she were of legal age and shall have all the rights, duties, privileges, and responsibilities provided

*Edited accordingly.

by the civil law to a person who has reached the age of majority under civil law; provided that:

- (1) Nothing in this section shall be deemed to confer upon such person the right to vote in any federal, state, or county election or the right to purchase, possess, or sell alcoholic beverages; and
- (2) Nothing in this section shall change the status of such persons as minors in connection with any criminal law, nor affect the exclusive original jurisdiction of the family court over such persons under section 571-11(1).

For purposes of this section, "minor" means a person under the age of majority."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 27, 1976.)

ACT 165

H.B. NO. 2359-76

A Bill for an Act Relating to the Public Utilities Commission and Making an Appropriation Therefor.

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

SECTION 1. Section 269-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 269-2 Public utilities commission; number, appointment of commissioners, qualifications; compensation; persons having interest in public utilities. There shall be a public utilities commission of three members, to be called commissioners, and who shall be appointed in the manner prescribed in section 26-34, except as otherwise provided in this section. All members shall be appointed for terms of six years each, except that the terms of the members first appointed shall be for two, four, and six years, respectively, as designated by the governor at the time of appointment. The governor shall designate a member to be chairman of the commission. Each member shall hold office until his successor is appointed and qualified. Section 26-34 shall not be applicable insofar as it relates to the number of terms and consecutive number of years a member can serve on the commission; provided that no member shall serve more than twelve consecutive years.

In appointing commissioners, the governor shall select persons who have had experience in accounting, business, engineering, government, finance, law, or other similar fields. The commissioners shall devote full time to their duties as

*Edited accordingly.

members of the commission and no commissioner shall hold any other public office or other employment during his term of office. No person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner.

The chairman of the commission shall be paid a salary the same as the salary of circuit court judges. Each of the other commissioners shall be paid a salary at the rate of ninety-five per cent of the chairman's salary. The commissioners shall be exempt from chapters 76 and 77 but shall be members of the state employees retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State, including those under chapter 87.

The commission is placed within the department of budget and finance for administrative purposes."

SECTION 2. Section 269-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 269-3 Employment of assistants. (a) The chairman of the public utilities commission may appoint and employ such clerks, stenographers, agents, engineers, accountants, and other assistants for the public utilities commission as he finds necessary for the performance of the commission's functions and define their powers and duties. The chairman may appoint and at pleasure dismiss a chief administrator and, notwithstanding section 103-3, an attorney independent of the attorney general who shall act as attorney for the commission, and define their powers and duties and fix their compensation. The chief administrator and attorney shall be exempt from chapters 76 and 77. Other employees, except the public utilities commission assistants, shall be appointed as may be needed by the chairman in accordance with chapters 76 and 77.

(b) For each county with a population less than 100,000, the chairman of the public utilities commission shall appoint a person who shall be designated a public utilities commission assistant, who shall reside in the county to which he is appointed and who shall be exempt from chapters 76 and 77.

The public utilities commission assistant shall report directly to the public utilities commission and shall be responsible for receiving complaints from consumers and meeting with the public utilities and transportation companies in their respective counties. In the event such complaints cannot be resolved to the satisfaction of the assistant, he shall report the matter directly to the public utilities commission. The assistant shall make arrangements for and be present at all public hearings called by the public utilities commission within the respective counties.

The chairman of the commission may direct the public utilities commission assistant of the respective counties to inquire into the operations, operating rights, rates, or direct inquiry and investigation into public utilities or transportation activities regulated under governing statutes, or hold conferences with the parties involved and submit a written report of the results of such inquiry or investigation to the commission setting forth his findings of fact and recommendations of the subject matter and serve a copy upon the person, public utility, or transportation company.

(c) Notwithstanding the provisions of section 91-13, the commission may consult with its assistants appointed under authority of this section in any contested case or agency hearing concerning any issue of facts. Neither the commission nor any of its assistants shall in such a proceeding consult with any other person or party except upon notice and an opportunity for all parties to participate, save to the extent required for the disposition of ex parte matters authorized by law."

SECTION 3. Section 269-4, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 269-5, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 269-5 Annual report and register of orders. The public utilities commission shall prepare and present to the governor, through the director of finance in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission's recommendations respecting legislation and other matters requiring executive and legislative consideration. Copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders and decisions, which shall be open and readily available for public inspection, and no order or decision of the commission shall take effect until it is filed and recorded in this register."

SECTION 5. Section 269-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 269-6 General powers and duties. The public utilities commission shall have the general supervision hereinafter set forth over all public utilities, and shall perform the duties and exercise the powers imposed or conferred upon it by this chapter.

The chairman of the commission may appoint one of its members as a hearings officer to hear and decide any proceeding before it other than a proceeding involving the rates or any other matters covered in the tariffs filed by the public utilities. The hearings officer shall have the power to take testimony, make findings of fact and conclusions of law and recommend a decision; provided that the findings of fact, the conclusions of law and the recommended decision shall be reviewed and approved by the commission after notice to the parties and an opportunity to be heard. The hearings officer shall have all of the powers conferred upon the public utilities commission under section 269-10."

SECTION 6. Section 269-15, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 269-15 Commission may institute proceedings to enforce chapter. If the public utilities commission is of the opinion that any public utility is violating or neglecting to comply with any provision of this chapter or of any rule, regulation, order, or other requirement of the commission, or of any provisions of its franchise, charter, or articles of association, if any, or that changes, additions, extensions, or repairs are desirable in its plant or service to meet the reasonable convenience or necessity of the public, or to insure greater safety or security, or that any rates, fares, classifications, charges, or rules are unreasonable or unreasonably discriminatory, or that in any way it is doing what it ought not to do, or not doing what it ought to do, it shall in writing inform the public utility and may institute such proceedings before it as may be necessary to require the utility to correct any such deficiency. In such event, the commission may by order direct the director of regulatory agencies to appear in such proceeding, to carry out the purposes of this section. The commission may examine into any of the matters referred to in section 269-7, notwithstanding that the same may be within the jurisdiction of any court or other body; provided that this section shall not be construed as in any manner limiting or otherwise affecting the jurisdiction of any such court or other body."

SECTION 7. Section 26-8, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 26-8 Department of budget and finance. The department of budget and finance shall be headed by a single executive to be known as the director of finance.

The department shall undertake the preparation and execution of the executive budget of the state government; conduct a systematic and continuous review of the finances, organization, and methods of each department of the State to assist each department in achieving the most effective expenditure of all public funds and to determine that such expenditures are in accordance with the budget laws and controls in force; have custody of state funds and be responsible for the safekeeping, management, investment, and disbursement thereof; and administer state debts.

The functions and authority heretofore exercised by the bureau of the budget (except for insurance management, surplus property management, and central purchasing transferred to the department of accounting and general services) and the funds custody, cash management, debt management, and administering of veterans loan functions of the treasurer as heretofore constituted are transferred to the department of budget and finance established by this chapter.

The employees retirement system as constituted by chapter 88 is placed within the department of budget and finance for administrative purposes. The functions, duties, and powers, subject to the administrative control of the director of finance, and the composition of the board of trustees of the employees retirement system shall be as heretofore provided by law.

The public utilities commission is placed within the department of budget and finance for administrative purposes only."

SECTION 8. Section 26-9, Hawaii Revised Statutes, is amended to read

as follows:

"Sec. 26-9 Department of regulatory agencies. The department of regulatory agencies shall be headed by a single executive to be known as the director of regulatory agencies.

The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, rules, and regulations governing the licensing and operation of, and register and supervise the conduct of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

The board of examiners of abstract makers, board of accountants, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, collection agencies advisory board, contractors license board, board of dental examiners, board of registration for professional engineers, architects, and surveyors, board of massage, board of medical examiners, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, board of pharmacy, board of photography, board of detectives and guards, real estate commission, and board of veterinary examiners are placed within the department of regulatory agencies for administrative purposes.

Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of regulatory agencies, and the composition of each board and commission shall be as heretofore provided by law.

Notwithstanding any provision to the contrary, the employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department shall be determined by the director of regulatory agencies subject only to applicable personnel laws.

The director of regulatory agencies may appoint a hearings officer or officers to hear and decide any case or controversy regarding licenses and the application and enforcement of rules and regulations involving any of the boards or commissions within the department of regulatory agencies. The hearings officer or officers shall have power to hear testimony, find facts, and make conclusions of law and a recommended decision; provided, that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be upon the facts found by the hearings officer or officers and upon such additional facts as may be heard by the reviewing officer, board, or commission. Decisions of the officer, board, or commission may in turn be appealed in the manner heretofore provided by law.

The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore constituted are transferred to the department of regulatory agencies established by this chapter. The director of regulatory agencies shall also be the insurance commissioner, commissioner of securities, and the fire marshal of the State."

ACT 166

SECTION 9. For the handling of dockets pending upon the effective date of this Act, the public utilities commission appointed pursuant to this Act, may appoint as hearing officer or officers without regard to the eight-year, two-term restriction of section 26-34, Hawaii Revised Statutes, one or more of the commissioners who held office prior to the effective date of this Act to continue hearing applications that were filed prior to the effective date of this Act. A person who is appointed a commissioner after the effective date of this Act shall not be precluded from serving as a hearing officer under this section. The hearing officer shall have the powers as provided in section 269-6, Hawaii Revised Statutes, and shall prepare his decisions in accordance with that section. Hearing officers appointed pursuant to this transition section may hear proceedings involving the rates or any other matters covered in the tariffs filed by the public utilities, notwithstanding the limitations of section 269-6, Hawaii Revised Statutes. Hearing officers appointed under this section shall receive compensation at the rate of \$50 a day while actually engaged in the performance of their duties and such reasonable travelling expenses as may be incurred in the discharge of their duties.

SECTION 10. There is appropriated from the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$385,252(16) or so much thereof as may be necessary, for the purposes of this Act. The director of regulatory agencies shall, upon approval by the governor, transfer from the amount appropriated to REG 103 by Act 195, Session Laws of Hawaii 1975, the sum of \$94,305(1) to the department of finance to be used for the purposes of this Act.

SECTION 11. Employees serving on the public utilities commission staff on loan or otherwise on the effective date of this Act shall become civil service employees as of such date without loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination.

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 13. This Act shall take effect on June 1, 1976.

(Approved May 28, 1976.)

ACT 166

S.B. NO. 2603-76

A Bill for an Act Relating to the Establishment of the Council of Housing and Construction Industry.

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

SECTION 1. Purpose. The legislature of the State of Hawaii has unequivocally committed itself to the responsibility of seeing that the housing

*Edited accordingly.

needs of the citizenry of this State are adequately met. In furtherance of this commitment, such important legislation included in the Hawaii Revised Statutes as: the Department of Budget and Finance-Veterans Loans, Chapter 364; the Hawaii Housing Authority-Low Income Housing, Chapter 356; State Housing Projects, Chapter 359; Teachers Housing, Chapter 359A; Housing Projects, Chapter 359G; Department of Labor and Industrial Relations-Factory Built Housing, Chapter 359L; Federal Housing Projects, Chapter 357; Government Aid for Housing Projects, Chapter 358; County Housing Projects, Section 46-15.1, were enacted for this singular purpose. The latest program for housing development was the enactment of Act 105, Session Laws of Hawaii 1970, whereby the Hawaii Housing Authority was given the responsibility to try and resolve the complex problems of providing housing for the lower and middle income groups at a reasonable price. This program has met with moderate success but the agency's efforts thus far have been in low cost housing and are unable to come forward with the type of program or innovations that will be necessary to keep step with the increasing demand by all economic groups for housing at a reasonable price. It is reported that even the government housing program was too expensive for the lower or middle income groups to qualify.

The future of the housing and construction industry as well as government sponsored housing programs are faced with four known constants for the future—increased cost of land, capital, labor, and materials. If in the economy today an average price of a new home averages \$60,000, what then will be the price in five to ten years. The Act 105 objectives dealt with a program of having the government enter into the housing market and independently or in cooperation with private industry to provide lower cost homes. However, it was not given the task of seeking the research and analysis to find short and long range solutions for some of the known causes for the high cost of construction. The housing and construction industry operates within a market place with intense competition but all are subject to numerous governmental agencies that must give their prior approval before the first spade of dirt is dug. There is probably no industry that has to obtain so many different approvals of government authorities before it can proceed to do its work. The reason for the cost of housing then is not only the increased costs of land, capital, labor, and materials but also the innumerable expensive and time-consuming governmental agency's regulations which must be complied with. While these standards have no doubt created the finest homes in the world, there has to be a reappraisal of the standards, codes, and regulations now being imposed. The State of Hawaii must be vitally concerned with the serious consequences that the housing and construction industry is and will be faced with in meeting tomorrow's demands. The problems of the housing and construction industry and the governmental agencies that regulate the industry have to undergo a realistic reappraisal if the future generations are going to be able to buy homes that are reasonably priced. Otherwise homes may be priced out of the market place for all but a few consumers. To implement the above concerns a Council of Housing and Construction Industry is being established.

SECTION 2. Council; composition; appointment; governing body. There

is established within the office of the governor for administrative purposes an advisory council for housing and construction industry composed of twenty-four members, twelve to be appointed by the governor subject to section 26-34 as follows:

- (1) The governor's special assistant on housing; the director of planning and economic development; the director of health; the chairman of the land use commission; the chairman of the Hawaii housing authority; the director of the office of consumer protection; the President of the Senate or his designated representative; and the Speaker of the House of Representatives or his designated representative shall be ex-officio members of the council.
- (2) The mayor of each county or his designated representative shall sit as ex-officio members of the council.
- (3) Three other members from the community at large appointed by the governor.
- (4) Nine members of the council to be appointed from the private sector appointed from the following organizations: home builders association of Hawaii; developers association of Hawaii; general contractors' association; building and trades council—AFL-CIO; mortgage bankers association; american institute of architects; consulting engineers council; board of realtors; and savings and loan league. Each organization shall submit a list of three persons from its ranks from which the governor shall select one person pursuant to section 26-34, representing each organization to serve as a member of the council. The persons nominated by the respective organizations shall be both knowledgeable and have at least five years of experience to qualify as a member.

The chairman on the council shall be selected by its members. Each member shall serve without pay but shall be reimbursed for travel and for necessary expenses incurred while attending meetings or in the discharge of his duties. The council shall be an advisory body to the housing and construction industry.

SECTION 3. Duties of council. The council shall:

- (1) Survey the statewide needs for housing on a five, ten, and twenty year basis and analyze the cost of supporting services by government such as water, sewage, schools, streets, and other related services.
- (2) Determine some of the immediate problems that need remedial legislation to aid in the development of housing and construction and to further the economy of this State.
- (3) Analyze the state and county standards, rules, regulations, and codes, with a view to eliminating archaic, duplicative, or unreasonable requirements and recommend new standards, rules, regulations, and codes that will benefit both the industry and the consumer.
- (4) Determine if an administrative processing agency can be created whereby only one agency in the State and each county can be contacted for any planned housing or other development.

- (5) Investigate whether the state and county agencies involved in housing and construction can establish a single agency to coordinate all of the requirements for a housing or other development.
- (6) Analyze whether innovative construction methods or substitution of materials can be utilized in the future.
- (7) Analyze consumer attitudes as to whether changes in materials, design, or construction methods would be marketable and investigate whether smaller size lots, streets, and homes are required for the future.
- (8) Provide input to land use policies being developed by the department of planning and economic development, as it relates to the effect to the cost of housing and construction and also provide input to state or county agencies research or development programs on housing and construction industry.
- (9) Investigate whether a state department of housing and construction can be established and what its programs authorities and functions would be and how it can be coordinated with the counties' responsibilities.
- (10) Establish a clearing house of information for the housing and construction industry that will benefit both government and industry in their activities.
- (11) Review federal programs with the purpose of making certain that the State and county will obtain their fair share of federal funds for housing and construction and propose legislation to cure any defects in federal law that discriminates against the leasehold or other type of developments in this State.
- (12) Investigate whether the traditional methods of financing the purchase of homes can be changed to aid in the purchase of homes and also analyze the sources and availability of long term (twenty-five or more years) mortgage money market, whether this source will still be available in the future and how the government can help in assuring that market.
- (13) Such other matters of investigation as the council, in its discretion, believes worthwhile of their endeavors.
- (14) Prepare an annual report and submit it to the governor and legislature on its activities.
- (15) Recommend specific administrative and legislative programs and submit proposed legislation and rules to the governor which the council believes should be enacted by state and county legislative and administrative bodies.

SECTION 4. The departments of the state and county government shall make available to the council, at no cost, such data, facilities, records, and information as are necessary for it to perform its duties.

SECTION 5. The council may subject to resources available to it, enter into contracts with consultants for studies which it believes the state or county agencies are not equipped nor have the personnel to perform the work required.

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

(Approved June 1, 1976.)

A Bill for an Act Relating to Expenditure of Public Money and Public Contracts.

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

SECTION 1. Chapter 103, Hawaii Revised Statutes, is amended by adding two sections to be appropriately designated and to read as follows:

"Sec. 103- Contract provision for retainage. Any public contract issued under this chapter may include a provision for the retainage of a portion of the amount due under the contract to the contractor to insure the proper performance of the contract; provided that the sum withheld by the contracting officer from the contractor shall not exceed five per cent of the amount due the contractor and that after fifty per cent of the contract is completed and progress is satisfactory, no additional sum shall be withheld; provided further, that if progress is not satisfactory, the contracting officer may continue to withhold as retainage, sums not exceeding five per cent of the amount due the contractor."

"Sec. 103- Substitution of retainage. Any other law to the contrary notwithstanding, any public contract issued under this chapter may provide that the contracting officer may enter into an agreement with the contractor which will allow the contractor to withdraw from time to time the whole or any portion of the sum retained under section 103- upon depositing with the contracting officer any government bond with a market value not less than the sum to be withdrawn."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 1, 1976.)

A Bill for an Act Relating to the Hilo Day Activity Center for the Adult Retarded.

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

SECTION 1. **Findings and purpose.** The legislature finds that there is urgent need for facilities and programs dedicated to providing diagnostic, treatment, and training services to moderately and severely retarded adults. The Hilo Day Activity Center for the Adult Retarded, established and operated by the Hilo Association to Help Retarded Children, provides such services at Hilo, Hawaii. In recent years, the center has faced operational deficits and during the past several years, has required increasing annual financial assistance from the State as a result of diminishing federal grants. For fiscal years 1974-75, the legislature has appropriated \$59,178 (excluding transporta-

*Edited accordingly.

tion costs), for the projected total budget for the center. The board of directors of the Hilo Association to Help Retarded Children has expressed its desire that the State assume ownership, without compensation therefor, administration and operation of the Hilo Day Activity Center for the Adult Retarded, the center's level III program. The Hilo Association for Retarded Children is not requesting at this time that the center's level I and level II programs be assumed by the State. The purpose of this Act is for the State to ensure the continuing availability of the services currently rendered by the Hilo Day Activity Center for the Adult Retarded, by assuming its ownership and incorporating its administration and operation into the state department of health's community programs, and by converting its employees into employees of the State.

SECTION 2. Definitions. As used in this Act, unless the context clearly indicates otherwise:

"Department" means the state department of health.

"Center" means the Hilo Day Activity Center for the Adult Retarded.

SECTION 3. Transfer. The Hilo Day Activity Center for the Adult Retarded is to be a state center. The department shall assume responsibility for all matters pertaining to the planning, construction, and improvement of the center and shall operate and manage the center and perform all acts necessary or convenient to such management and control.

The employees of the center on July 1, 1976 shall be transferred to the department and shall thereafter be state employees and enjoy all of the rights, privileges, and benefits of employees of the State, subject, however, to the following conditions:

- (1) The director of personnel services shall determine the applicability of chapters 76 and 77, Hawaii Revised Statutes, to the transferred employees;
- (2) Employees employed by the center at least one full year immediately preceding the date of transfer shall be given status as regular employees of the state civil service without competitive examination; and
- (3) Employees employed less than one full year shall be given initial probationary appointment without competitive examination.

SECTION 4. Civil service compensation. Positions held by transferred employees shall be assigned by the director of personnel services to the appropriate class in the position classification plan and the employees shall be paid in accordance with the salary range to which the class is assigned; provided that employees receiving a salary above the minimum rate at the time of their transfer may be paid at a rate higher than the minimum but not exceeding the highest pay rate in the appropriate salary range.

SECTION 5. Vacation; sick leave. Upon certification by the center of accumulated and earned vacation and sick leave, the transferred employees shall be credited under chapter 79, Hawaii Revised Statutes, with their accumulated and earned vacation and sick leave to the extent that public employees are allowed to earn and accumulate these credits.

SECTION 6. Retirement system. Upon the transfer, the employees shall be admitted to membership in the state pension and retirement systems provided for in chapter 88, Hawaii Revised Statutes. Upon certification of years of service by the department, a transferred employee shall be given prior service credits under chapter 88, Hawaii Revised Statutes. Service credits shall be allowed for the transferred employee's years of service at the center or for other programs sponsored or administered directly by the Hilo Association to Help Retarded Children, the parent agency, for which the employee agrees to have additional deductions made from his compensation or to make a lump sum payment therefor.

SECTION 7. Citizenship; residency. The requirements as to citizenship and residency in section 78-1, Hawaii Revised Statutes, shall not apply to employees transferred from the center to the department.

SECTION 8. Transfer of property. (a) All records, equipment, machinery, motor vehicles, files, supplies, contracts, books, papers, documents, maps, and all other personal property of every kind and description belonging to the center shall be transferred to the department without reimbursement to the center. The center shall prepare inventory lists and receipts to account properly for such transfer. Any dispute as to whether particular personal property should be transferred to the department under this Act shall be determined by the director of health.

(b) The center shall transfer to the State all of its respective interest in and to any real property and the improvements thereto. The conveyances shall be without reimbursement to the center.

SECTION 9. Budgeting and fiscal procedures. Beginning with the fiscal period July 1, 1976 through June 30, 1977, and thereafter, the center shall be subject to such budgeting and fiscal procedures as may be required by the department.

SECTION 10. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$39,959 or so much thereof as may be necessary, for continuing the operation of the Hilo Day Activity Center for the Adult Retarded.

SECTION 11. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 12. Effective date. This Act shall take effect on July 1, 1976.

(Approved June 1, 1976.)

ACT 169

H.B. NO. 682

A Bill for an Act Relating to the Lapsing of Certain Funds.

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

SECTION 1. The legislature finds that funds have been appropriated for certain programs and purposes but have not been expended due to the completion of the programs and purposes or changes in the circumstances of the programs and purposes leaving unencumbered funds or balances of funds. The legislature further recognizes that such funds are restricted to those programs and purposes for which they were appropriated. Thus, certain funds which were authorized in prior acts of the legislature should be released for the use of other programs and purposes. The purpose of this Act, therefore, is to lapse certain appropriations deemed unnecessary by the legislature which have not otherwise been lapsed by law.

SECTION 2. Any law to the contrary notwithstanding, the appropriations authorized under the following acts in the amounts indicated are hereby lapsed:

AGENCY AND APPROPRIATIONS ACT	UNREQUIRED BALANCE
LAND AND NATURAL RESOURCES	
Act 93, SLH 1970—Dev. of Bait-seining Methods for the Hawaiian Skipjack (Aku) Fishery	\$ 9,977.00
Act 92, SLH 1970—Shark Control and Research	2,160.96
UNIVERSITY OF HAWAII	
Act 184, SLH 1974—Hawaii Research Center for Futures Study	68,000.00
Act 188, SLH 1974—Grants to Students Enrolled at the U of H	159,000.00
Act 188, SLH 1974—Research and Dev. of Filipino Studies Program at the U of H	7,380.12
Act 188, SLH 1974—Counselor at Hawaii Community College	12,000.00
Act 188, SLH 1974—Security Guards for the U of H	46,028.48
Act 188, SLH 1974—Continuing Education for Women	50,000.00
DEFENSE	
Section 127-11, HRS—Major Disaster Fund, Counties Kauai & Maui and C&C of Honolulu	80,721.18
SOCIAL SERVICES AND HOUSING	
Act 119, SLH 1965—Education and Occupations Training Parolees	4,790.54
Act 99, SLH 1972—Establishment of Work Incentive Program Units	193.90
Act 209, SLH 1970—Claims under Criminal Injuries Compensation Act	3,600.00
Act 71, SLH 1971—Claims under Criminal Injuries Compensation Act	5,632.77
ACCOUNTING AND GENERAL SERVICES	
Act 104, SLH 1970—Planning Intermediate Care Facilities & Care Homes	279,474.18
ATTORNEY GENERAL	
Constitution—Condemnation of Sea Fishery at Anukoli, Maalaea, Maui	349.43
Constitution—Acquisition of Private Rights in Sea Fishery of Lawai, Kauai	2,679.08
Act 145, SLH 1970—Study Relating to Fixing of Financial & Criminal Responsibility for Oil Spillage Damages	1,000.00
Act 108, SLH 1971—Organized Crime Unit	8,531.71

ACT 170

GOVERNOR

Act 214, SLH 1967—Hawaii Highway Safety Program	40,000.00
Act 178, SLH 1971—Hawaii Research Center for Futures Study	10,000.00
Act 96, SLH 1970—Commission on the Year 2000	3.44
Act 169, SLH 1972—Conference of College & University Student Leaders	4,099.83
Act 165, SLH 1974—Marine Affairs Coordinator	37,528.00
Act 166, SLH 1974—All-Hawaii Marine Exhibition in 1978	3,714.97

REGULATORY AGENCIES

Act 206, SLH 1974—Licensing of Acupuncture Practitioners	1.00
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LIEUTENANT GOVERNOR

Act 194, SLH 1971—Study of the Election System in the State	15,000.00
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SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1976.)

ACT 170

H.B. NO. 1886

A Bill for an Act Relating to Civil Service and Exemption.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

“Sec. 76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the state service now existing or hereafter established and embraces all personnel services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington place and [six] eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;

- (7) Department heads, officers and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; one law clerk for each justice of the supreme court and each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in subparagraph (17);
- (10) Assistant and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in research projects approved by the governor, for which projects federal funds are available, provided the period of employment shall not exceed one year;
- (13) Election inspectors, election clerks and other election employees;
- (14) Positions filled by inmates, kokua, patients, and students of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs under titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, as amended;
- (15) A custodian or guide at Iolani palace, Royal Mausoleum and Hulihee palace;
- (16) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (17) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of

ACT 171

health to administer all environmental health programs within the jurisdiction of the department, one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services [and housing]; and an administrative assistant to the superintendent of education;

- (18) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (19) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

SECTION 2. Any employee of the lieutenant governor's office presently subject to chapters 76 and 77, Hawaii Revised Statutes, shall retain his civil service status.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

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

(Approved June 1, 1976.)

ACT 171

H.B. NO. 1997-76

A Bill for an Act Relating to Lands Dedicated for Residential Use.

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

SECTION 1. Section 246-12.3, Hawaii Revised Statutes is amended to read:

"Sec. 246-12.3 Certain lands dedicated for residential use. (a) The term "owner" as used in this section means a person who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least ten years from the date of the petition.

(b) A special land reserve is established to enable the owner of any parcel of land within a hotel, apartment, resort, commercial, or industrial district to dedicate his land for residential use and to have his land assessed at its value in residential use; provided that (1) the land dedicated shall be limited to a parcel used only for single family dwelling residential use, (2) the owner of the land dedicated shall use it as his home, and (3) not more than one parcel of land shall be dedicated for residential use by any owner.

(c) If any owner desires to use his land for residential use and to have his land assessed at its value in this use, he shall so petition the director of taxation

and declare in his petition that if his petition is approved, he will use his land for single family dwelling residential use only and that his land so dedicated will be used as his home.

Upon receipt of any such petition, the director of taxation shall make a finding of fact as to whether the land described in the petition is being used by the owner for single family dwelling residential use only and as his home. If the finding is favorable to the owner, the director of taxation shall approve the petition and declare the land to be dedicated.

(d) The approval of the petition by the director of taxation to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of his land for a minimum period of ten years, automatically renewable thereafter for additional periods of ten years subject to cancellation by either the owner or the director of taxation.

(e) Failure of the owner to observe the restrictions on the use of his land or the sale of the property shall cancel the special tax assessment privilege retroactive to the date of the [petition,] dedication, or the latest renewal-ten-year period, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten per cent per year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over [one calendar year] twelve consecutive months to use the land in the manner requested in the petition or the overt act of changing the use for any period, or the sale of the real property. Nothing in this subsection shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land.

The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication shall be a paramount lien upon the property pursuant to section 246-55.

(f) The director of taxation shall prescribe the form of the petition. The petition shall be filed with the director of taxation by [March 1] September 1 of any calendar year and shall be approved or disapproved by [June 15.] December 15. If approved, the assessment based upon the use requested in the dedication shall be effective on [July 1] January 1 of the next calendar year.

(g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment."

SECTION 2. Sections 246-12.4 and 246-12.5, Hawaii Revised Statutes, are repealed.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, and the underscoring. In making the deletions allowed by this section, the revisor shall retain the amendments made by Act 157, Session Laws of Hawaii 1975. The intent of this Act is not to repeal or affect Act 157.*

*Edited accordingly.

[Revisor's note. Underscored matter is substituted for bracketed matter, effective January 1, 1977. L 1975, Act 157, §§7, 35.]

ACT 172

SECTION 4. This Act shall be effective for taxable years beginning after June 30, 1976.

(Approved June 1, 1976.)

ACT 172

H.B. NO. 2056-76

A Bill for an Act Relating to Government Expenditures by Informal Bid.

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

SECTION 1. The purpose of this bill is to increase the limit for informal bids to reduce red tape and thereby effectuate lower bids.

SECTION 2. Section 103-22 of the Hawaii Revised Statutes is amended to read as follows:

"Section 103-22 Advertisement for bids required; exceptions. No expenditure of public money, except salaries or pay of officers or employees, or permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law, or for other purposes which do not admit of competition, or for the purchase of materials or supplies from any other department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, or for the performance of public work or contracts by any other such department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, where the sum to be expended is \$8,000 or more shall be made except under contract let after public advertisement for sealed tenders, in the manner provided by law. In all cases of expenditures of public money that is more than \$4,000 but less than \$8,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State; provided, that in the case of public works or repairs and maintenance of buildings, roads and other site improvements where the expenditure is more than \$4,000 but less than \$15,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State. No expenditures for public purposes shall be so divided or parceled as to defeat or evade this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed materials, or the underscoring.*

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

(Approved June 1, 1976.)

ACT 173

H.B. NO. 2099-76

A Bill for an Act Relating to Statute Revision.

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

*Edited accordingly.

SECTION 1. The revisor of statutes shall edit and prepare for printing and distribution two new volumes of the Hawaii Revised Statutes. The volumes shall contain all of the statutes in force and effect now contained in Volume 4 of the Hawaii Revised Statutes and the 1975 Supplement thereto, together with all acts passed by the Legislature at the Regular Session of 1976 and assigned to chapters 281 and 400, inclusive. This material shall be divided as nearly equally as practicable between the two new volumes, which shall be designated Volume 4 and Volume 4A.

SECTION 2. Five thousand copies each of Volume 4 and Volume 4A shall be printed by the revisor and delivered to the Lieutenant Governor for distribution and sale.

SECTION 3. Section 2-3, Hawaii Revised Statutes, is amended to read:

“Sec. 2-3 Revisor’s duties. The duties of the revisor, in the order of their priority, shall be:

- (1) The publication of the session laws;
- (2) The publication of supplements to the revised laws;
- (3) The publication of replacement volumes of the revised laws;
- (4) The review of annotations to the revised laws;
- (5) The continuous revision of the statute laws of Hawaii; and
- (6) Such other related duties as may be assigned by the supreme court.”

SECTION 4. Chapter 2, Hawaii Revised Statutes, is amended by adding a new section to read:

“Sec. 2-5.5 Publication of replacement volumes. The revisor may replace and bring up to date the permanent volumes of the revised laws. He shall incorporate in the replacement volumes all laws enacted by the legislature since the volumes to be replaced were brought up to date. The replacement volumes shall be edited, made up, printed and bound to correspond as nearly as practicable with the present permanent volumes.

The replacement volumes shall be kept up to date by cumulative supplements.”

SECTION 5. Section 2-6, Hawaii Revised Statutes, is amended to read:

“Sec. 2-6 Supplements and replacement volumes; extent of revision; prima facie the law. In preparing the supplements and replacement volumes, the revisor may:

- (1) Number and renumber chapters, sections, and parts of sections;
- (2) Rearrange sections;
- (3) Change reference numbers to agree with renumbered chapters, parts or sections;
- (4) Substitute the proper section or chapter numbers for the terms “the preceding section”, “this act”, and like terms;
- (5) Strike out figures where they are merely a repetition of written words;
- (6) Change capitalization for the purpose of uniformity;
- (7) Correct manifest clerical or typographical errors; and
- (8) Make such other changes in any act incorporated in the supplements and replacement volumes as shall be necessary to conform the style

ACT 174

thereof as near as may be with that of the last revision of the laws of Hawaii; provided that in making such revision, he shall not alter the sense, meaning or effect of any act.

The matter set forth in the supplements and replacement volumes shall be *prima facie* evidence of the law."

SECTION 6. Section 2-7, Hawaii Revised Statutes, is amended to read:

"Sec. 2-7 Printing contracts. The revisor shall cause sufficient copies of the session laws, supplements, and replacement volumes to be printed. The revisor may contract for such publications with or without regard to the laws governing public contracts or public printing. The completed volumes of the session laws, supplements, and replacement volumes shall be delivered to the lieutenant governor for distribution."

SECTION 7. Section 2-8, Hawaii Revised Statutes, is amended to read:

"Sec. 2-8 Sale and distribution. The session laws, supplements, and replacement volumes shall be sold and distributed by the lieutenant governor at a price fixed by him. The money received therefor shall be paid into the state treasury to the credit of the general fund. The lieutenant governor may furnish the session laws, supplements, and replacement volumes to public officials for official use free of charge."

SECTION 8. There is appropriated out of the general revenues of the State the sum of \$75,000, or so much thereof as may be necessary, to carry out the purposes of this Act.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 10. This Act shall take effect upon its approval.

(Approved June 1, 1976.)

ACT 174

H.B. NO. 2101-76

A Bill for an Act Relating to Audit and Accounting.

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

SECTION 1. Chapter 40, Hawaii Revised Statutes, is amended by adding a new section thereto to read:

"Sec. 40- Comptroller's acceptance of vouchers for the Hawaii State Medicaid Program. The requirements of section 40-56 and section 40-57 to the contrary notwithstanding, the comptroller may issue warrants for original warrant vouchers without accompanying original bills for payments to vendors of the Hawaii State Medicaid program. The original bills shall be retained by the expending agency vouchering the payment, and shall be made available for authorized referencing, for the period prescribed by section 40-10 for the reten-

*Edited accordingly.

tion of vouchers, documents and other records or papers before destruction. For purposes of this section, the definition of original bills shall also include computer magnetic tape, computer listings, computer output microfilm, microfiche, and manually produced microfilm."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 1, 1976.)

ACT 175

H.B. NO. 2102-76

A Bill for an Act Relating to Public Purchases and Contracts.

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

SECTION 1. The purpose of this Act is to support the rehabilitation of the physically or mentally handicapped by establishing a preference of government agencies to purchase products manufactured and services performed by nonprofit corporations and public agencies operating sheltered workshops for physically or mentally handicapped persons in Hawaii.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 103-22.1 Services of the handicapped. When a governmental agency contracts for or purchases services, five percent preference shall be given to services to be performed by nonprofit corporations or public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The state comptroller shall adopt rules under chapter 91 to establish the preference for the services to be performed by nonprofit corporations or public agencies operating sheltered workshops consistent with this section."

SECTION 3. Section 103-43, Hawaii Revised Statutes, is amended to read:

"Sec. 103-43 Mandatory purchase of Hawaii products. In any expenditure of public funds, a governmental agency shall purchase any required product from the Hawaii products listed established under section 103-42 where such products are available, provided the products meet the minimum specifications and the selling price does not exceed by more than three per cent, where Class I Hawaii products are involved, or five per cent where Class II Hawaii products are involved or ten per cent where Class III Hawaii products are involved, the delivered or lowest bid in Hawaii of a similar non-Hawaii product.

Where a package bid or purchase contains both Hawaii and non-Hawaii products, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a non-Hawaii product item shall be increased by

*Edited accordingly.

ACT 176

adding thereto three per cent, five per cent or ten per cent where similar Class I, Class II or Class III Hawaii product items have been bid or offered by another party pursuant to the preferences stated above. The lowest total bid, taking into consideration the above preferences, shall be awarded the contract but the contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of such preferences.

Notwithstanding the provisions of the preceding paragraphs, an additional five percent preference shall be applicable to Hawaii products manufactured by nonprofit corporations and public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The state comptroller shall adopt rules under chapter 91 to require a governmental agency to give an additional five percent preference to the purchase of products manufactured by nonprofit corporations or public agencies operating sheltered workshops consistent with this section."

SECTION 4. Section 103-48, Hawaii Revised Statutes is amended to read:

"Sec. 103-48 Penalty. Any officer of the State or of any municipality, county, or other political subdivision thereof, or any person acting under or for such officer, or any other person who violates any provisions of sections 103-22, 103-22.1, 103-23, 103-29, and 103-33 shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any officer or employee of any governmental agency who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any person, or any officer or employee of any person, who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and any person who is awarded a contract or given an order for purchase as a result of misrepresentation in his bid or makes a claim in his bid that he will purchase Hawaii products, but fails to do so shall, in addition, be fined the difference between the price of the products actually used or supplied and the price he would have paid for Hawaii products and shall not be awarded any contract or be given any order for purchase or be eligible for bidding until one year after the date when such person pays the fines levied under this section."

SECTION 5. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 1, 1976.)

ACT 176

H.B. NO. 2103-76

A Bill for an Act Relating to Insurance.

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

*Edited accordingly.

SECTION 1. Section 431-269, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Minimum valuation standard:

- (1) Old policies: Except as otherwise provided in paragraph (3), the minimum standard for the valuation of all such policies and contracts issued prior to the operative date of section 431-561, shall be that provided by the laws in effect immediately prior to January 1, 1956.
- (2) Except as otherwise provided in paragraph (3), the minimum standard for the valuation of all the policies and contracts issued on or after the operative date of section 431-561 shall be the Commissioners Reserve Valuation Method defined in subsection (d) of this section, three and one-half per cent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued after the effective date of this Act, and prior to January 1, 1986, four per cent interest, and the following tables:
 - (A) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of section 431-561(e) (5), and the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than three years younger than the actual age of the insured.
 - (B) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies—the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 431-561(e)(6), and the Commissioners 1961 Standard Industrial Mortality Table for the policies issued on or after the operative date.
 - (C) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.
 - (D) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of the table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.
 - (E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued after December 31, 1965, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study

- of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued after December 31, 1960, and prior to January 1, 1966, either the tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.
- (F) For accidental death benefits in or supplementary to policies—for policies issued after December 31, 1965, the 1959 Accidental Death Benefits Table; for policies issued after December 31, 1960, and prior to January 1, 1966, either the table or, at the option of the insurer, the Inter-company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.
- (G) For group life insurance, life insurance issued on the substandard basis, and other special benefits—such tables as may be approved by the commissioner.
- (3) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph as defined herein, and for all annuities and pure endowments purchased after such operative date under group annuity and pure endowment contracts, shall be the Commissioners Reserve Valuation Method defined in subsection (d) and the following tables and interest rates:
- (A) For individual annuity and pure endowment contracts issued prior to January 1, 1986, excluding any disability and accidental death benefits in such contracts—the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and six per cent interest for single premium immediate annuity contracts, and four per cent interest for all other individual annuity and pure endowment contracts.
- (B) For individual annuity and pure endowment contracts issued on or after January 1, 1986, excluding any disability and accidental death benefits in such contracts—the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and three and one-half percent interest.
- (C) For all annuities and pure endowment contracts purchased prior to January 1, 1986 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner and six per cent interest.
- (D) For all annuities and pure endowments purchased on or after January 1, 1986 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in

such contracts—the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner and three and one-half per cent interest.

After the effective date of this Act, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such insurer, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1979."

SECTION 2. Section 431-561, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

- "(e) The adjusted premium—life:
- (1) Except as provided in subsection (e) (4) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:
 - (A) The then present value of the future guaranteed benefits provided for by the policy;
 - (B) Two per cent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;
 - (C) Forty per cent of the adjusted premium for the first policy year;
 - (D) Twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.
 - (2) Provided, that in applying the percentages specified in (C) and (D) above, no adjusted premium shall be deemed to exceed four per cent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy.
 - (3) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this paragraph shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the

same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, that in the case of a policy providing a varying amount of insurance issued on the life a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten was the amount provided by the policy at age ten.

- (4) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (B) the adjusted premiums for the term insurance, the foregoing items (A) and (B) being calculated separately and as specified in subsection (e) (1), (2), and (3) except that, for the purposes of subsection (e) (1) (B), (C), and (D) the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (B) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (A).
- (5) Except as otherwise provided in paragraphs (6) and (7) of subsection (e) of this section, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent a year, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent of the rates of mortality according to the applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.
- (6) In the case of ordinary policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest

shall not exceed three and one-half per cent a year, except that a rate of interest not exceeding four per cent a year may be used for policies issued after the effective date of this Act and prior to January 1, 1986, and provided further that, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured; provided, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commission's 1958 Extended Term Insurance Table; provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner. After June 1, 1959, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph (6) after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph (6) for such insurer), this paragraph (6) shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this paragraph (6) for such insurer shall be January 1, 1966.

- (7) In the case of industrial policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided that such rate of interest shall not exceed three and one-half per cent a year, except that a rate of interest not exceeding four per cent a year may be used for policies issued after the effective date of this Act and prior to January 1, 1986, provided, further that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table; provided further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner. After May 8, 1965, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph for such insurer), this paragraph shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this

ACT 177

paragraph for such insurer shall be January 1, 1968."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 1, 1976.)

ACT 177

H.B. NO. 2302-76

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Section 346-15, Hawaii Revised Statutes, is amended to read:

"Sec. 346-15 Burial of an indigent. (a) The department of social services and housing may bear the cost of the burial of indigent persons. Burial services include the customary mortuary, crematory, cemetery, and other services essential in providing a dignified burial.

(b) The department may pay for mortuary and crematory services, to be furnished by one from a list of certified providers under contract with the department. Mortuary and crematory payments shall be made to the extent of cost, or in the sum of \$400, whichever is less.

(c) The department may pay for cemetery services, to be furnished by one from a list of certified providers under contract with the department. Cemetery payments shall be made to the extent of cost, or in the sum of \$400, whichever is less.

(d) In cases where the decedent is survived by relatives, such relatives shall be permitted to choose either mortuary services or cemetery services, or both forms of service.

(e) The department shall adopt rules and regulations pursuant to Chapter 91 for purposes of administering and implementing this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1976.

(Approved June 1, 1976.)

ACT 178

H.B. NO. 2335-76

A Bill for an Act Relating to Housing.

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

SECTION 1. Chapter 359G, Hawaii Revised Statutes, is amended by ad-

*Edited accordingly.

ding a new section to be appropriately designated and to read as follows:

"Sec. 359G- Rehabilitation and renovation of existing housing. (a) The authority may make loans to qualified residents for the purpose of rehabilitating or renovating an existing housing unit. Loans under this section shall not be in excess of \$10,000 to any resident or for any housing unit and shall be issued upon execution of a written contract for the performance of the rehabilitation or renovation.

(b) Loans participated under this section shall be limited to rehabilitating or renovating housing units to meet minimum provisions of applicable county or state codes or laws; or to meet recognized standards of residential liveability. Loans under this section shall be available for rehabilitation or renovation of owner-occupied, single-family and duplex housing.

Applications for loans under this section shall be made on such form as is prescribed by the authority. The application shall specify the property to be improved, the amount to be loaned, the downpayment to be made by the qualified resident, the schedule of repayment, and such other conditions as are established by the authority by rule. If the loan is assigned to and serviced by a mortgage lender, the application shall be processed by the mortgage lender and forwarded to the authority. The authority shall review all applications and determine the amount of the loan; provided that it shall approve loans only to qualified residents as defined by this section. When an application is approved by the authority, the amount of the loan shall be paid to the mortgage lender for disbursement to the qualified resident, if the loan is assigned to or serviced by a mortgage lender. The mortgage lender shall collect all payments from the qualified resident and otherwise service the loan.

The authority shall establish a means whereby counseling is provided to owners to assist them in determining whether they qualify under this section; and, if they qualify, to assist them in complying with the requirements of this section. The authority may establish such other minimum requirements which shall be met by owners to qualify for loans, as are conducive to carrying out this section. The authority shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has funds available.

- (c) A qualified resident under this section means a person who:
 - (1) Is a citizen of the United States or a declarant alien;
 - (2) Is at least eighteen years of age;
 - (3) Is the owner and occupant of existing housing otherwise qualified under this section;
 - (4) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit for which a loan is requested under this section;
 - (5) Does not own individually or, when husband and wife are living together, does not own jointly with spouse, and whose spouse does not own any other property in the State which are suitable for dwelling purposes, whether such properties are held in fee simple or leasehold;
 - (6) Has applied for and has been refused a home improvement loan by at least one bank or other financial institution in the State;
 - (7) Is not eligible for a loan, or a combination of grant and loan, in the sum requested from any other program or programs sponsored by the state,

- the county, or the federal government for which funds are then available;
- (8) Has adjusted family income below the maximum limit established by the authority; and
 - (9) Is, in determination of the authority, able to repay the loan on terms satisfactory to the authority.
- (d) Applicants shall submit to the authority plans and specifications for each rehabilitation or renovation project, which, as a condition to the granting of an application, shall be found by the authority to be in conformity with applicable county codes or ordinances; or approved by the appropriate county authority by permit, exception, variance, waiver or other means.
- (e) Loans received by the qualified resident under this section shall be used exclusively and entirely for the planning and financing of rehabilitation and renovation of qualified housing, which shall be completed within two years of the contract date. Any written contract executed pursuant to this section shall expressly contain the provisions of this subsection, the form of which shall be established by rules adopted by the authority.
- (f) All rehabilitation or renovation undertaken pursuant to this section shall be performed under the supervision of a contractor licensed pursuant to chapter 444; provided that this shall not prevent a project from being completed substantially with donated labor under licensed supervision. The owner shall indemnify the authority for any loss suffered by the authority as a result of any claim or action arising from a mechanic's or materialman's lien relating to a rehabilitation or renovation project of such owner under this section.
- (g) Every loan made under this section shall be subject to the following terms and conditions:
- (1) Loans made under this section shall be repaid within ten years, in accordance with a payment schedule and at a rate of interest to be specified by the authority; provided that the rate of interest shall be in conformance with section 359G-30.
 - (2) In the event that an owner transfers title to a housing unit rehabilitated or renovated under this section, the outstanding balance of the loan shall be paid at the maximum rate of interest allowed under subsection (g) (1); provided that there shall be no prepayment penalty.
 - (3) The loan may, at the direction of the authority, be assigned to and serviced by mortgage lenders doing business in the State at a service fee established by contract between the authority and the mortgage lender, but in no event will the service fee be greater than the service fee charged by the mortgage lender for similar loans ordinarily made by them.
 - (4) When the mortgage lender or the authority deems that foreclosure proceedings are necessary to collect moneys due from the qualified resident, it shall notify the other and the proceeding shall be promptly initiated by the mortgage lender, unless the authority elects to request an assignment of the loan. Within thirty days of the notification by either the mortgage lender or the authority to the other, the authority may request an assignment of the loan on payment in full of the mortgage lender's share of the principal balance due. Foreclosure

proceedings shall be held in abeyance in the interim.

(h) For the purpose of more effectively carrying out this section, the authority may contract with any legally constituted county housing agency to participate in loans under this section. Such contract shall specify rules of administration; provided that no contract shall prevent the county agency from establishing by rule more specific policies and priorities for assistance not in conflict with this section.

(i) When requested by the authority, the director of finance shall issue general obligation bonds of the State pursuant to part I of chapter 39 to effectuate the purposes of this section, subject to prior approval of the governor."

SECTION 2. Section 359G-3.1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 359G-3.1 Housing assistance unit. The governor by executive order may establish a housing information, counseling, and referral unit within the Hawaii housing authority. The unit shall be responsible for providing housing information on any private, state, county, or federal housing project, for providing counseling to prospective homeowners seeking to purchase a home, and to homeowners seeking to rehabilitate or renovate existing housing, and for providing listing and referral services to tenants seeking to rent homes."

SECTION 3. Section 359G-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Upon authorization by the legislature, cause the State to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease or rental of land and dwelling units by qualified residents under this chapter;
- (5) Payment of any services contracted for under this chapter, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the authority to provide for citizen participation in the development of housing projects, the implementation of this chapter, and the staffing of any citizen advisory committee the authority may establish;
- (6) The cost of repurchase of units under section 359G-9;
- (7) Loans for the rehabilitation and renovation of existing housing; and
- (8) Any other monies required to accomplish the purposes of this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1976.)

*Edited accordingly.

ACT 179

ACT 179

S.B. NO. 1830-76

A Bill for an Act Relating to Initial Appointments.

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

SECTION 1. Section 77-9, Hawaii Revised Statutes, is amended to read:

"Sec. 77-9 Initial appointments. All initial appointments shall be made at the first step of the appropriate salary range. In the event that the recruitment of an employee in classes SR 18 and above is not practicable at the first step, the director may, after appropriate notice and advertising, recruit at any step within the appropriate salary range at which an appropriate employee can be recruited. The director shall report all such recruitment in classes SR 18 and above and the justification therefor to the legislature not later than ten days prior to the opening of each regular session and, in case of the counties, similar reports shall be made to the council not later than July 15 each year.

Where deemed essential in the public interest, the director may, with the prior approval of the chief executive, declare a class in which a shortage occurs to be in a shortage category, and establish the lowest step within the salary range which is fair and reasonable and at which employees can be recruited from the labor market as the minimum salary level for that class.

The director shall review each shortage category class at least once each year to determine whether the manpower shortage exists to the same degree as previously determined and shall adjust the entry level accordingly. If he determines that a shortage no longer exists, the director shall reestablish the first step of the appropriate salary range as the entry level for the class. The director shall report all state shortage category determinations and the justifications therefor to the legislature not later than ten days prior to the opening of each regular session and, in case of the counties, similar reports shall be made to the council not later than July 15 each year.

No incumbent in a shortage category class shall be compensated at a rate less than his entry level; provided, that an employee who moves from one political jurisdiction to another within the State shall have his pay rate adjusted to the pay rate in effect in the political jurisdiction to which he moves."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 1, 1976.)

ACT 180

H.B. NO. 2824-76

A Bill for an Act Relating to Credit Life Insurance.

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

*Edited accordingly.

SECTION 1. Section 431-573, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 431-573 Debtor groups. The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term debtors shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors, or partnerships, if the business of the policyholder and of such affiliated corporations, proprietors, or partnerships, is under common control through stock ownership, contract, or otherwise.
- (2) The premiums for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premiums is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured.
- (4) The amount of insurance on the life of any debtor shall at no time exceed the amount owned by him which is repayable in installments to the creditor, or [\$10,000,] \$20,000, whichever is less.
- (5) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.
- (6) Payment by the debtor insured under any such group life insurance contract of an amount not in excess of the premium charged the creditor by the insurer for such insurance pertaining to the debtor, shall not be deemed to constitute a charge upon a loan in violation of any banking or usury law or any law regulating installment sales."

SECTION 2. Statutory material to be repealed is bracketed. New material

ACT 181

is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

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

(Approved June 1, 1976.)

ACT 181

H.B. NO. 2932-76

A Bill for an Act Relating to Sentencing of Repeat Offenders.

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

SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"Section 706- Sentencing of repeat offenders. Notwithstanding section 706-669 and any other law to the contrary, any person convicted under the Hawaii Penal Code, sections 701 relating to murder, 710 relating to assault in the first degree, 720 relating to kidnapping, 730 relating to rape in the first degree, 733 relating to sodomy in the first degree, 810 relating to burglary in the first degree, 840 relating to robbery in the first degree, 1241 relating to the promoting of a dangerous drug in the first degree, 1242 relating to the promoting of a dangerous drug in the second degree, or 1244 relating to the promoting of a harmful drug in the first degree, who has a prior conviction for the same offense in this or another jurisdiction, shall be sentenced for each conviction after the first conviction to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (1) Second conviction for same offense—5 years;
- (2) Third conviction for same offense—10 years.

The sentencing court may impose the above sentences consecutive to any other sentence then or previously imposed on the defendant."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 1, 1976.)

ACT 182

H.B. NO. 2999-76

A Bill for an Act Relating to Civil Service and Exemptions.

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

SECTION 1. Section 76-16 (17), Hawaii Revised Statutes, is amended to read as follows:

"(17) Positions of first deputies or first assistants of each department head

*Edited accordingly.

appointed under or in the manner provided in section 6, article IV, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services and housing; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; and an administrative assistant to the superintendent of education;"

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 1, 1976.)

ACT 183

H.B. NO. 3043-76

A Bill for an Act Relating to Civil Actions.

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

SECTION 1. Section 634-23, Hawaii Revised Statutes, is amended to read:

"Sec. 634-23 Joinder of unknown persons; service when defendant unknown or absent. When an action or proceeding involves or concerns any property, tangible or intangible, within the jurisdiction of a circuit court, or any legal or equitable estate, right or interest, vested or contingent, in any such property, or any status or res within the jurisdiction of a circuit court:

- (1) Any person having a claim, interest or concern so as to be a necessary or proper party, who cannot be identified or whose name is unknown to the plaintiff, may be made party to the action or proceeding as provided by the rules of court.
- (2) If a defendant is unknown or does not reside within the State or if, after due diligence, he cannot be served with process within the State, and the facts shall appear by affidavit to the satisfaction of the court, it may order that service be made as provided by section 634-24 or by publication, as may be appropriate; provided, that service by publication shall not be valid unless, it is shown to the satisfaction of the court that service cannot be made as provided by section 634-24. The affidavit

*Edited accordingly.

required by this paragraph shall set forth facts based upon the personal knowledge of the affiant concerning the methods, means, and attempts made to locate and effect personal service on the defendant, and any other pertinent facts.

- (3) Service by publication shall be made in at least one newspaper published in the State and having a general circulation in the circuit in which the action or proceeding has been instituted, in such manner and for such time as the court may order, but not less than once in each of four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court. If the action or proceeding concerns real property the court shall order additional notice by posting a copy of the summons upon the property.
- (4) Any adjudication shall, as regards a defendant served by publication pursuant to this section, or served as provided by section 634-24, affect only the property, status or res which is the subject of the action, unless (A) the defendant appears in the action and defends on the merits, in which case he shall be liable to a personal judgment with respect to the claim so defended, including in the case of a foreclosure action a deficiency judgment, or (B) the service is authorized by section 634-25 or other provision of law, in which case he shall be liable to any judgment authorized by such law.
- (5) Nothing herein contained limits or affects the right to serve any process in any other manner now or hereafter provided by law or rule of court."

SECTION 2. Section 634-24, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 634-24 Service outside the State or by registered mail. In any case in which, under section 634-23, provision is made for service of summons as provided by this section, personal service shall be made upon the defendant wherever found or he shall be served by registered or certified mail with request for a return receipt and marked deliver to addressee only, as ordered by the court. A certified copy of the order, the summons and the complaint shall be served, and the service shall be evidenced by an affidavit showing that the required papers were sent by registered or certified mail as aforesaid, and by the receipt signed by the defendant and filed with the affidavit, or in the case of personal service by the return of the serving officer or the affidavit of any other person authorized to serve process in the place where the defendant is found or appointed by the court to make the service.

The affidavit required by this section shall set forth facts based upon the personal knowledge of the affiant concerning the methods, means, and attempts made to satisfy the requirements of this section and any other pertinent facts."

SECTION 3. Section 634-25, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 634-25 Personal service on resident outside the State. Whenever a defendant, being a resident of the State, cannot be served within the State per-

sonal service may be made upon him outside the State by any person authorized to serve process in the place in which he may be found or specially appointed by the court to make the service which service shall be evidenced by the return of the serving officer or by affidavit and shall be of the same legal force and validity as if made within the State.

The affidavit required by this section shall set forth facts based upon the personal knowledge of the affiant concerning the methods, means, and attempts made to satisfy the requirements of this section and any other pertinent facts."

SECTION 4. Section 669-3, Hawaii Revised Statutes, is amended to read:

"Sec. 669-3 Notice by publication or registered mail. In any action brought under section 669-1(a) or (b), unknown persons and any known persons who do not reside within the State or cannot after due diligence be served with process within the State may be served as provided by sections 634-23, 634-24, and 634-26."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 1, 1976.)

ACT 184

H.B. NO. 3075-76

A Bill for an Act Relating to the Ownership of Solid Wastes.

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

SECTION 1. Purpose. The purpose of this chapter is to define the ownership of all solid waste generated in the State. The Legislature finds that with the decreasing supply of natural resources, manufacturers look to recover and re-use solid waste as a source of needed materials and as a result the value of solid waste is increasing. The anticipated competition for solid waste and recovered resources may result in legal complications. This situation can be avoided by the declaration of ownership of all solid waste.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER SOLID WASTE

Sec. -1. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Collector" means any person or governmental agency which has been licensed to remove refuse in accordance with applicable ordinances and regulations.

*Edited accordingly.

ACT 185

- (2) "Generator" means any person or governmental agency which generates solid waste.
- (3) "Incinerator" means an engineered combustion device specifically designed for volume reduction by controlled burning of combustible solid waste.
- (4) "Landfill" means a land area used for the disposal of solid waste.
- (5) "Operator" means any person or governmental agency which accepts solid waste for processing, disposing, or transferring at an incinerator, landfill site, resource recovery facility or transfer station.
- (6) "Owner" means any person or governmental agency which shall have title to solid waste.
- (7) "Resource recovery facility" means a facility in which solid waste is reprocessed into new products in such manner that original products lose their identity.
- (8) "Solid waste" means garbage, refuse and other discarded solid materials, including solid waste materials resulting from industrial and commercial operations, and from community activities. Solid waste does not include solid or dissolved materials in domestic sewage or other substances in water sources, such as silt, dissolved or suspended solids in industrial waste effluents, dissolved materials in irrigation return flows or other water pollutants.
- (9) "Transfer station" means a supplemental transportation facility used as an adjunct to solid waste route collection vehicles, which facility may be fixed or mobile and may include recompaction of solid waste.

Sec. -2. Ownership of solid waste. Unless otherwise provided by any county ordinance, the owner of solid waste shall be:

- (1) The generator of the solid waste until the solid waste is collected;
- (2) The collector until the solid waste is deposited with an operator;
- (3) In the absence of a collector, the generator of the solid waste until the solid waste is deposited with an operator; or
- (4) The operator upon acceptance of the solid waste."

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

(Approved June 1, 1976.)

ACT 185

H. B. NO. 3095-76

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Chapter 408, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 408- Embezzlement of funds or assets; penalty. Every officer, director, or employee of an industrial loan company who embezzles, abstracts, or wilfully misappropriates any of the moneys, funds, credits, assets, or property of the industrial loan company, whether owned by the industrial loan company or held

for safekeeping or as agent, or held in trust; or who, without authority of the board of directors of the industrial loan company, issues or puts forth any investment certificate, draws any order, draft, or bill of exchange, makes acceptance, assigns any note, bond, draft, bill, bill of exchange, mortgage, judgment, or decree, or makes any false entry in the books or statements of the industrial loan company, with the intent in any case to injure or defraud the industrial loan company or any officer thereof; or who, with like intent, aids or abets any other officer, director, or employee of any industrial loan company in any violation of this section; shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both."

SECTION 2. Chapter 408, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 408- Receiving illegal compensation; penalty. Any officer, director, agent, teller, clerk, or employee of an industrial loan company who asks for, receives, or consents or agrees to receive, any commission, emolument, gratuity, compensation, or reward, or any promise of any commission, emolument, gratuity, compensation, or reward, or any money, property, or thing of value or of personal advantage, for procuring or endeavoring to procure for any person, any loan from the industrial loan company, or the purchase or discount of any paper, note, draft, check, or bill of exchange by the industrial loan company, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 1, 1976.)

ACT 186

H.B. NO. 3096-76

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Section 408-14, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 408-14 Specific powers. Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, 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 comakers, 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 con-

*Edited accordingly.

- sideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering or servicing of such loans or contracts;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action, notwithstanding Section 416-31 to the contrary;
 - (4) To establish branches within the State with the prior written approval of the bank examiner;
 - (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into the purchases; and
 - (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without allowance of interest on the installments; provided, that nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand.

The certificates shall not be issued by any such company without receiving the prior written approval of the bank examiner, and shall bear upon the face of the instrument the words, "THIS IS NOT A CERTIFICATE OF DEPOSIT."

No industrial loan company shall have outstanding at any time its certificates and/or its debentures registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus: provided, that the bank examiner shall have the authority to limit the ratio of certificates and/or debentures to capital and surplus which may be issued by any industrial loan company if he determines that such lower ratio is necessary in the public interest. In determining the ratio to be permitted, the bank examiner shall consider all relevant circumstances, including, without limitation, the following factors:

- (1) The length of time the company has been in operation.
- (2) Ratio of losses to volume of loans made and contracts purchased.
- (3) The creation and maintenance of adequate reserve for losses.
- (4) Charge-off of uncollectable accounts.
- (5) The amount or growth of undivided profits and/or earned surplus.
- (6) Diversification of character and source of loans made and contracts purchased.
- (7) Creation and maintenance of adequate internal controls.
- (8) Sound and efficient management.

Every industrial loan company shall, as of July 1, 1969, maintain and have on hand at all times a cash or other security reserve in an amount equal to three per cent of its liabilities on outstanding certificates, and after December 31, 1969, maintain and have on hand at all times a cash or other security reserve in an amount equal to four per cent of its liabilities on outstanding certificates, which reserve shall not be pledged.

The security reserve shall be limited to direct obligations of the United States government, state, county, and securities listed on the New York stock

exchange and the American stock exchange and no more than 25 per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange and the American stock exchange."

SECTION 2. Section 408-20, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 408-20 Other 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 this chapter and shall not split or divide any contract so as to obtain charges in excess of those authorized by this chapter. A licensee shall not sell any loan to another person or company doing business in this State whenever such loan provides by contract for a rate of interest greater than would be permissible under section 478-3 unless such person or company has the right to charge, contract for, receive, collect in advance or recover interest, discount and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408 and such loans are sold without recourse."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 1, 1976.)

ACT 187

H.B. NO. 3162-76

A Bill for an Act Relating to the Office of Information and Youth Affairs; Office of the Governor.

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

SECTION 1. Chapter 27C, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 27C-1 Purpose. The purpose of this chapter is to provide a centralized, statewide information service, through which the public's information needs can be most effectively served and by which agencies can coordinate and maintain communication with the community.

Sec. 27C-2 State information service, functions. (a) The Hawaii Revised Statutes is amended to provide for the establishment of a centralized state information service in the office of the governor, consisting of a central office at the capital and satellite offices located in each county.

*Edited accordingly.

(b) The functions of the state information service shall include the following:

- (1) Communication to the public of information concerning the functions of government, the services it renders through the departments and agencies, and the status of various important programs and projects which affect the quality of life in the community.
- (2) Making direct response to queries, whether by telephone, correspondence, or meetings, from persons desiring information or assistance and assisting in channeling requests, queries, and recommendations from the public to appropriate public offices and referring nongovernmental related matters to appropriate private offices, and providing methods to encourage timely and adequate response to such queries.
- (3) Assessing the effectiveness of existing informational services by providing feedback, coordinating information programs and recommending innovative communication techniques.
- (4) Seeking and implementing more effective means of publicizing public notices and other announcements which should receive timely and wide dissemination.
- (5) Identification of specific community informational needs and provision of special information services to meet such needs.
- (6) Devising information and exchange programs for elective and appointive government officers to help increase their awareness and understanding of the community and its needs.

SECTION 2. If House Bill No. 2016 or Senate Bill No. 1899 relating to the establishment and operation of an office of children and youth is enacted during the regular session of 1976:

- (1) Those functions relating to children and youth in chapter 27C, Hawaii Revised Statutes;
- (2) All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the youth affairs component; and
- (3) The sum of \$8,200 appropriated for the office of information and youth affairs,

shall be transferred to the office of children and youth to coincide with the effective date of the creation of the office of children and youth.

SECTION 3. If House Bill No. 2016 or Senate Bill No. 1899 relating to the establishment and operation of an office of children and youth is not enacted during the regular session of 1976; then the functions relating to children and youth in chapter 27C, Hawaii Revised Statutes, shall be transferred to the commission on children and youth.

SECTION 4. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*.

*Edited accordingly.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 1, 1976.)

ACT 188

S.B. NO. 28

A Bill for an Act Relating to Motor Vehicle Taxes.

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

SECTION 1. Notwithstanding the state fuel tax rate contained in paragraphs (3), (4), (5), and (6) of section 243-4(a), Hawaii Revised Statutes, the state fuel tax imposed under such paragraphs of section 243-4(a), after June 30, 1976 but prior to July 1, 1977, shall be at the rate of 8-1/2 cents for each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2) of section 243-4(a) sold or used.

SECTION 2. Notwithstanding the state fuel tax rate contained in paragraphs (1), (2), (3), and (4) of section 243-4(b), Hawaii Revised Statues, the state fuel tax imposed under such paragraphs of section 243-4(b), after June 30, 1976 but prior to July 1, 1977, shall be at the rate of 7-1/2 cents for each gallon of diesel oil sold or used.

SECTION 3. Chapter 249, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"Sec. 249 State registration fee. In addition to all other fees and taxes levied under this chapter, every owner of a motor vehicle shall pay a \$1 vehicle registration fee to the State. The tax shall become due and payable on January 1, and shall be paid before April 1 in each year. The respective counties shall collect this tax together with the vehicle registration tax collected for the county and shall transfer the moneys collected under this section to the State to be paid into the state highway fund. This tax shall take effect on January 1, 1978.

Sec. 249- State vehicle engine displacement tax. All motor vehicles in the State in addition to all other fees and taxes levied by this chapter shall be subject to an annual state vehicle engine displacement tax. Ten cents shall be levied against each motor vehicle for every one hundred cubic inches, or fraction thereof, of the vehicle's total engine size and shall be paid to the State. This tax shall become due and payable on January 1 and shall be paid before April 1 in each year. The respective counties shall collect this tax together with the vehicle registration tax collected for the county and shall transfer the moneys collected under this section to the State to be paid into the state highway fund. This tax shall take effect on January 1, 1978."

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 5. This Act shall take effect on its approval; provided that section 3 shall take effect on January 1, 1978.

(Approved June 2, 1976)

*Edited accordingly.

A Bill for an Act Relating to Tax Incentives for Energy Conservation.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 235- Solar energy devices; income tax credit. (a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for a solar energy device in an amount not to exceed ten per cent of the total cost of the device. The credit shall be claimed against net income tax liability for the year in which the solar energy device was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices which are erected and placed in service after December 31, 1974 but before December 31, 1981. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against his income tax liability in subsequent years until exhausted.

(b) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. He may also require the taxpayer to furnish reasonable information in order that he may ascertain the validity of the claim for credit made under this section and he may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(c) As used in this section "solar energy device" means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation."

SECTION 2. Chapter 246, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 246- Alternate energy improvements, exemption. (a) The value of all property in the State (not including a building or its structural components, except where alternate energy improvements are incorporated into the building, and then only that part of the building necessary to such improvement) actually used for an alternate energy improvement shall be exempted from the measure of the taxes imposed by this chapter; provided the property exemption shall be applicable only with respect to alternate energy improvements which are installed and placed in service after June 30, 1976 but before December 31, 1981.

Application for the exemption provided by this section shall be made with the director of taxation.

The director of taxation may require the taxpayer to furnish reasonable information in order that he may ascertain the validity of the claim for deduction made under this section and may adopt rules under chapter 91 to implement this section.

(b) As used in this section "alternate energy improvement" means any construction or addition, alteration, modification, improvement, or repair work

undertaken upon or made to any building which results in:

- (1) The production of energy from a source, or uses a process which does not use fossil fuels or nuclear fuels. Such energy source may include, but shall not be limited to, solid wastes, wind, geothermal, solar, or ocean waves, tides, or currents. Such energy process may include, but shall not be limited to, bio-conversion, hydro-electric power, thermal conversion, or osmosis; provided that nuclear fission shall be excluded from the provisions of this section; or
- (2) An increased level of efficiency in the utilization of energy produced by fossil fuels or in the utilization of secondary forms of energy dependent upon fossil fuels for its generation."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act shall take effect upon its approval; provided that section 1 shall apply to taxable years beginning after December 31, 1974, and section 2 shall take effect on July 1, 1976.

(Approved June 2, 1976.)

ACT 190

S.B. NO. 2348-76

A Bill for an Act Relating to Importation of Liquor as Household Goods.

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

SECTION 1. **Purpose.** The law allows any person arriving in the State to bring with him for private use and consumption, any liquor not exceeding one gallon, without the requirement of obtaining a license. This Act will allow any person to obtain a special permit to receive a shipment of liquor from outside the State either when the liquor is not otherwise available in the State, as an unsolicited gift, or as part of his household goods originally purchased for use outside the State.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new section to Chapter 281 to be appropriately designated and to read:

"Sec. 281- Individual permits to receive shipments of liquor.

(a) Notwithstanding any other provisions of law, any unlicensed adult person may apply to the liquor commission and be issued, for a nominal fee, a permit to receive a shipment of liquor from outside the State, not to exceed five gallons, for use and consumption by the applicant and his household and not for sale in any form.

(b) In the case of a shipment which the application shows is an unsolicited gift, the quantities permitted to be received under subsection (a) above shall be limited to 3.2 gallons (12 liters) in total of all kinds of liquor.

(c) In the case of a shipment in respect of which the applicant shows to the liquor commission that the liquor was prior to the date of the application the

*Edited accordingly.

ACT 191

personal property of the applicant, formed a part of his household goods, was used and stored outside the State, and was originally acquired (or made by the applicant) outside the State, the quantity of wine, or other liquor capable of aging and originating from grapes or other fruit, which shall be permitted to be received under subsection (a) above may exceed the limit there stated if the commission finds that it is reasonable to do so consistent with the intent of this statute to allow persons taking up residency in the State the free movement of their household goods into this State.

(d) Except in the case of applications meeting the requirements of subsections (b) or (c), the permit shall not be issued unless the applicant demonstrates to the satisfaction of the liquor commission that each of the brands to be brought in under the permit is otherwise unavailable in the State, and that the manufacturer of such brand would be willing to list prices for such brand pursuant to Section 281-43 if channels for distribution in the State were available.

(e) No more than one permit may be issued pursuant to subsection (a) in respect of any one household in any calendar year, and each applicant shall be required to affirm, under penalty of perjury, that no member of his household has previously received such a permit in the applicable calendar year.

(f) All such applications and shipments shall be in accordance with regulations promulgated by the liquor commission.

(g) A common carrier to whom the permit is presented is authorized to make delivery of the described shipment to the person named in the permit. Delivery of such a shipment pursuant to the permit shall not be deemed to constitute a sale in this State."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act shall take effect upon its approval. After such date, permits may be issued for shipments notwithstanding that they originated prior to the effective date of this Act.

(Approved June 4, 1976.)

ACT 191

S.B. NO. 2409-76

A Bill for an Act Relating to Service-Connected Total Disability Retirement for Police Officers.

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

SECTION 1. Section 88-77, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In the case of firemen, policemen, and sewer workers, the effect of the inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system shall be construed as an injury received or

*Edited accordingly.

disease contracted while in the performance of their duty and as the result of some occupational hazard for the purpose of determining total disability retirement under this section.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in permanent incapacity to a fireman, policeman, or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no willful negligence on the fireman's, policeman's, or sewer worker's part and as a result of the inherent occupational hazard of exposure to and inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such fireman, policeman, or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 4, 1976.)

ACT 192

S.B. NO. 2643-76

A Bill for an Act Relating to the Public Employees Health Fund.

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

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended to read:

"Sec. 87-4 State and county contributions to the fund. The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$5] \$10 for each of their respective employee-beneficiaries and [\$15] \$30 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided, that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall be [\$15] \$30 for both of them.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$2.57] \$3.26 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reim-

*Edited accordingly.

ACT 193

bursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee.

The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries. Each county's pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for hospital, medical and surgical benefits, dental benefits, and group life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.

Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

SECTION 2. There is hereby appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance for the fiscal year 1976-77 the sum of \$3,782,000 or so much thereof as may be necessary for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.

SECTION 4. This Act shall take effect on July 1, 1976.

(Approved June 4, 1976.)

ACT 193

H.B. NO. 1399

A Bill for an Act Relating to Easements.

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

SECTION 1. Section 171-13, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-13 Disposition of public lands. Except as otherwise provided by law and subject to other provisions of this chapter, the board may:

- (1) Dispose of public land in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement for particular purposes in perpetuity on such terms and

conditions as may be set by the board, subject, however, to reverter to the State upon termination or abandonment of the specific purpose for which it was granted, provided that any easement may be granted by direct negotiation and without recourse to public auction when the sale price of such easement as determined pursuant to section 171-17(b) is less than \$500.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval

(Approved June 4, 1976.)

ACT 194

H.B. NO. 2928-76

A Bill for an Act Relating to Adoption of Adults.

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

SECTION 1. Chapter 578, Hawaii Revised Statutes, is amended as follows:

1. By amending section 578-1 to read as follows:

"Sec. 578-1 Who may adopt; jurisdiction; venue. Any proper adult person, not married, or any person married to the legal father or mother of a minor child, or a husband and wife jointly, may petition the family court of the circuit in which he or they reside or are in military service or the family court of the circuit in which the individual to be adopted resides or was born or in which a child placing organization approved by the department under the provisions of section 346-17 having legal custody (as defined in section 572-2(11)) of the child is located, for leave to adopt an individual toward whom he or they do not sustain the legal relationship of parent and child and for a change of the name of the individual. The petition shall be in such form and shall include such information and exhibits as may be prescribed by the family court."

2. By amending section 578-2 as follows:

"Sec. 578-2 Consent to adoption. (a) Persons required to consent to adoption. Unless consent is not required or is dispensed with under subsection (c) hereof, a petition to adopt a child may be granted only if written consent to the proposed adoption has been executed by:

- (1) The mother of the child;
- (2) A legal father as to whom the child is a legitimate child;
- (3) An adjudicated father whose relationship to the child has been determined by a court;
- (4) A presumed father under section 578-2(d);
- (5) A concerned natural father who is not the legal, adjudicated, or

*Edited accordingly.

presumed father but who has demonstrated a reasonable degree of interest, concern or responsibility as to the welfare of a child, either:

- (A) During the first thirty days after such child's birth; or
 - (B) Prior to the execution of a valid consent by the mother of the child; or
 - (C) Prior to the placement of the child with adoptive parents; whichever period of time is greater;
 - (6) Any person or agency having legal custody of the child or legally empowered to consent;
 - (7) The court having jurisdiction of the custody of the child, if the legal guardian or legal custodian of the person of the child is not empowered to consent to adoption;
 - (8) The child to be adopted if more than ten years of age, unless the court in the best interest of the child dispenses with the child's consent.
- (b) A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and the adult's spouse, if the adult is married, and if the adult to be adopted is an adult niece, nephew, or stepchild of the adopting parents.
- (c) Persons as to whom consent not required or whose consent may be dispensed with by order of the court.

- (1) Persons as to whom consent not required:

- (A) A parent who has deserted a child without affording means of identification for a period of ninety days or who has voluntarily surrendered the care and custody of the child to another for a period of two years;
- (B) A parent of a child in the custody of another, if the parent for a period of at least one year has failed to communicate with the child when able to do so, or for a period of at least one year has failed to provide for care and support of the child when able to do so;
- (C) A natural father who was not married to the child's mother at the time of the child's conception or birth and who does not fall within the provisions of subsection (a)(3) or (4) or (5) and who is found by the court to have failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a child either (i) during the first thirty days after such child's birth, or (ii) prior to the execution of a valid consent by the mother of the child, or (iii) prior to the placement of the child with adoptive parents, whichever period of time is greater.
- (D) A parent whose parental rights have been judicially terminated under chapter 572, or under the provisions of any other state or other law by a court or other agency having jurisdiction to take such action;
- (E) A parent judicially declared mentally incompetent or mentally retarded if the court dispenses with such parent's consent;
- (F) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after

examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably;

- (G) Any parent of the individual to be adopted, if the individual is an adult eligible for adoption under subsection (b).

(2) Persons whose consent may be dispensed with by order of the court.

The court may dispense with the consent of a parent who comes within subsection (a) (3) or (4) or (5) herein, upon finding that:

- (A) The petitioner is the stepfather of the child and the child has not lived with the adjudicated, presumed, or concerned father for a substantial period of time; or
- (B) The adjudicated, presumed, or concerned father has not filed a petition to adopt such child; or
- (C) The adjudicated, presumed, or concerned father is not a fit and proper person who is financially and otherwise able to give the child a proper home and education.

(d) Presumption of paternity. A man is presumed to be the natural father of a child if:

- (1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
- (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (A) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
 - (B) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;
- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; and
 - (A) He has acknowledged his paternity of the child in writing filed with the department of health;
 - (B) With his consent he is named as the child's father on the child's birth certificate; or
 - (C) He is obligated to support the child under a written voluntary promise or by court order;
- (4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or
- (5) He acknowledges his paternity of the child in writing filed with the department of health, which shall promptly inform the mother of the

filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the department of health. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted. If the acknowledgment is filed and not disputed by the mother and if another man is not presumed under this section to be the child's father, the department of health shall prepare a new certificate of birth in accordance with chapter 338.

(e) **Notice of hearing; minor parent; consent authorizing selection of adoptive parents.** No hearing of a petition for adoption shall be had unless each of the living parents of the child who falls within the provisions of subsection (a) and who has not consented to the proposed adoption, but who is alleged to come within the provisions of subsection (c) (1) (A) or (c) (1) (B) or (c) (2) of this section, shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof. Such notice need not be given to any parent whose parental rights have been legally terminated as hereinabove provided or whose consent has been filed with the petition.

The minority of a child's parent shall not be a bar to the right of such parent to execute a valid and binding consent to the adoption of such child.

Any parental consent required hereunder shall be valid and binding even though it does not designate any specific adoptive parent or parents, if it clearly authorizes the department of social services and housing, or a child placing organization approved by the department under the provisions of section 346-17 or some proper person not forbidden by law to place a child for adoption, to select and approve an adoptive parent or parents for the child.

(f) **Withdrawal of consent.** A consent to adoption which has been filed or received in evidence in an adoption proceeding or which has been given to the department of social services and housing or to a child placing organization approved by the department under section 346-17, or to any other proper person not forbidden by law to place or receive an individual for adoption, may not be withdrawn or repudiated after the individual has been placed for adoption, without the express approval of the court based upon a written finding that such action will be for the best interests of the individual to be adopted.

(g) **Maintenance of action based on medical or surgical treatment of child barred when.** A person who consents to adoption, or on whose behalf a consent to adoption is signed, and a nonconsenting parent whose consent is not required or is dispensed with hereunder shall be barred from maintaining any action based upon medical or surgical care or treatment given to the child with the permission of the petitioner or petitioners or the person or agency authorized by the parental consent to select and approve an adoptive parent or parents; provided that nothing herein contained shall be construed to alienate or impair any cause of action accruing to the child for personal injury which may be sustained as a result of such medical or surgical care or treatment."

3. By amending section 578-8 to read as follows:

"Sec. 578-8 Hearing; investigation; decree. No decree of adoption shall be entered unless a hearing has been held at which the petitioner or petitioners, and

any legal parent married to a petitioner, and any individual whose consent is required, have personally appeared before the court, unless expressly excused by the court. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the court may enter a decree of adoption if it is satisfied (1) that the individual is adoptable under sections 578-1 and 578-2, (2) that the individual is physically, mentally, and otherwise suitable for adoption by the petitioners, (3) that the petitioners are fit and proper persons and financially able to give the individual a proper home and education, if the individual is a child, and (4) that the adoption will be for the best interests of the individual, which decree shall take effect upon such date as may be fixed therein by the court, such date to be not earlier than the date of the filing of the petition and not later than six months after the date of the entry of the decree.

Before entering the decree, the court shall notify the director of social services or the nearest county administrator of the department of social services and housing of the pendency of such petition for adoption and allow a reasonable time for the director or such county administrator to make such investigation as he may deem proper as to the fitness of the petitioners to adopt the individual, and as to whether the best interests of the individual will be subserved by the adoption; provided, that the court may, if it finds that the best interests of the individual to be adopted so require, by written order waive the requirement for notification and investigation above set forth, and enter its decree solely on the basis of the evidence adduced at the hearing. The director shall have the right to intervene in any adoption proceeding for the purpose of protecting the interests of the individual to be adopted or of any legal parent of the individual, and shall have the same rights of appeal as any party to the proceeding. The attorney general, upon the request of the director, shall represent the director in any such proceeding. The director, when notified as above set forth, or when he has intervened without notification, shall make a report to the court within the time required, reporting the facts disclosed and his recommendation; provided, that the director, if he determines that the best interests of the individual to be adopted will be served thereby, may refer any such notification to a child placing organization approved by the department under section 346-17, and the report and recommendation of such organization, when forwarded by the director, shall be considered by the court in lieu of a report and recommendation by the director. If the court determines that any such report discloses facts adverse to the petitioners or indicates that the best interests of the individual to be adopted will not be subserved by the proposed adoption, it shall thereupon give notice of the determination to the petitioners and afford them a reasonable opportunity to rebut the report."

4. By amending section 578-9 to read as follows:

"Sec. 578-9 Custody of minor child after decree and before adoption. The decree may provide that, during the period, if any, between the entry thereof and the effective date of adoption, the care, custody, and control of a minor child be given to the petitioner or petitioners, who, in such event, shall be liable during such period for the care, maintenance, and support of the minor child and for its torts in the same manner as legal parents, and may further provide for the supervision and visitation of the minor child by the director of social services or

his agent during such period and for such reports in connection therewith as the court may require."

5. By amending section 578-10 to read as follows:

"Sec. 578-10 Disposition of minor child on discontinuance, withdrawal or denial of petition. Upon the discontinuance or withdrawal or denial of any petition for adoption, the court may make appropriate temporary orders concerning the care, custody, and control of a minor child involved and may refer the minor child to the department of social services and housing or to another appropriate agency or officer for action as in the case of a minor subject to section 571-11(1)."

6. By amending section 578-11 to read as follows:

"Sec. 578-11 Disposition in case of death of petitioners. Notwithstanding the death of a petitioner or the petitioners during the pendency of the petition, the court, if it finds that the best interests of the individual to be adopted will be served thereby, and, in the case of a surviving petitioner, that such petitioner so desires, may enter a decree of adoption as prayed for in the petition, effective as of the date of the filing of the petition."

7. By amending section 578-13 to read as follows:

"Sec. 578-13 Change of name. The family name of an adoptive minor child shall be changed to that of the adoptive parent or parents and the given name of the minor child may be fixed or changed at the same time. The family name of an adoptive individual who is an adult at the time of the filing of the petition for adoption may be changed to that of the adoptive parent or parents and the given name of the adult may be fixed or changed at the same time."

8. By amending section 578-14 to read as follows:

"Sec. 578-14 Record of adoption. A certified copy of the decree of adoption, or a certified abstract thereof on a form approved by the department of health shall, after such decree has become effective, be sent to the department. The department shall cause to be made a new record of the birth in the name of the individual, as fixed or changed by the decree, with the names of the adoptive parents, and shall then cause to be sealed and filed the original birth certificate of the individual with the decree or the abstract thereof, and such sealed package shall be opened only by order of a court of record. If the birth of the individual occurred outside of the State, and a record of such birth exists, the certified copy of the decree or the abstract thereof, shall be transmitted by the department of health to the birth registration authorities of the place of the individual's birth with a request that such authorities take appropriate action with respect to the record of individual's birth. If the birth of the individual occurred outside of the State, or if the birth of an individual born in the State has not been registered with the department of health, or if other good cause exists, the clerk of the court shall, upon request, and with the approval of the family court, upon the finding of the court that such action is for the best interests of the individual involved, furnish to the adoptive parents, or to the individual, or to any proper person acting in their behalf, a certified copy or abstract of the decree of adoption, or a certificate of adoption in such form as is approved by the court. If the parental rights of a parent or the parents of a minor child have been judicially terminated under

chapter 571 prior to the entry of the decree, a certified copy of the decree shall be filed in the termination proceeding."

9. By amending section 578-15 to read as follows:

"Sec. 578-15 Secrecy of proceedings and records. The records in adoption proceedings, after the petition is filed and prior to the entry of the decree, shall be open to inspection only by the parties or their attorneys, the director of social services or his agent, or by any proper person on a showing of good cause therefor, upon order of the court. Except in the case of an individual being adopted by a person married to the legal father or mother of such individual, or unless authorized by the court, no petition for adoption shall set forth the name of the individual sought to be adopted or the name of either of the parents of the individual; provided, that the legal name of the individual and the name of each of the individual's legal parents may be added to the petition by amendment during the course of the hearing thereof and shall be included in the decree. The hearing of the petition shall be in chambers and shall not be open to the public. Upon the entry of the decree, or upon the later effective date of the decree, or upon the dismissal or discontinuance or other final disposition of the petition, the clerk of the court shall seal all records in the proceedings; provided, that, upon the written request of the petitioner or petitioners, the court may waive the requirement that such records be sealed. The seal shall not be broken and the records shall not be inspected by any person, including the parties to the proceedings, except upon order of the family court.

The clerk of the court shall keep a docket of all adoption proceedings, which may be inspected only by order of the family court."

10. By amending section 578-16 to read as follows:

"Sec. 578-16 Effect of adoption. A legally adopted individual shall be considered to be a natural child of the whole blood of the adopting parent or parents under chapter 532, relating to the descent of property, and the former legal parent or parents of an adopted individual and any other formal legal relatives or next of kin shall not be considered to be related to the individual under such provisions; and for all other purposes an adopted individual and his adopting parent or parents shall sustain towards each other the legal relationship of parents and child and shall have all the rights and be subject to all the duties of that relationship, the same as if the individual were the natural child of the adopting parent or parents, and all such duties and rights as between the individual and his former legal parent or parents shall cease from the time of the adoption; provided, that if the individual is adopted by a person married to a legal parent of the individual, the full reciprocal rights and duties which theretofore existed between the legal parent and the individual, and the rights of inheritance as between the individual and the legal parent and the legal relatives of the parent, shall continue, notwithstanding the adoption, subject only to the rights acquired by and the duties imposed upon the adoptive parent by reason of the adoption. An individual legally adopted under the laws of any state or territory of the United States or under the laws of any nation shall be accorded the same rights and benefits in all respects as an individual adopted under this chapter."

ACT 195

11. By adding a new section to be appropriately designated and to read as follows:

"Sec. 578- Adoption. Any minor child or an adult who is a niece, nephew, or stepchild of one of the adopting parents may be adopted under this chapter; provided that the adult to be adopted must give his written consent to the adoption."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 4, 1976.)

ACT 195

H.B. NO. 3129-76

A Bill for an Act Relating to School Bus Contracts.

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

SECTION 1. Chapter 296, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 296- School bus contracts. Any law to the contrary notwithstanding, school bus contracts between the State and a private contractor may be extended for one year by mutual agreement; provided, that the parties may agree to extend the contract for an additional year thereafter. The compensation due to the contractor by the State for each extended year may be increased, but in an amount not to exceed five per cent of the previous year's compensation. If the original contract between the State and a private contractor already includes an option to extend the contract period, this provision shall be applicable after the contract option is exercised."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 4, 1976.)

ACT 196

S.B. NO. 1577

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-36, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-36 Lease restrictions; generally. (a) Except as otherwise provided, the following restrictions shall apply to all leases:

*Edited accordingly.

- (1) Options for renewal of terms are prohibited;
- (2) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet the requirements of the Federal Housing Administration, Federal National Mortgage Association, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or Veterans Administration requirements, provided, that the aggregate of the initial term and extension shall in no event exceed seventy-five years;
- (3) No lease shall be made for any land under a lease which has more than two years to run;
- (4) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions;
- (5) No lease shall be transferable or assignable, except by devise, bequest, or intestate succession; provided, that with the approval of the board of land and natural resources, the assignment and transfer of a lease or unit thereof may be made if:
 - (A) It contains the personal residence of the lessee;
 - (B) In the case of commercial, industrial, hotel, resort, apartment, and other business uses, the lessee was required to put in substantial building improvements;
 - (C) The lessee becomes mentally or physically disabled;
 - (D) Extreme economic hardship is demonstrated to the satisfaction of the board; or
 - (E) It is to the corporate successor of the lessee;
- (6) The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board, provided, that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee and provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee; provided, that the rent may not be revised downward;
- (7) The lease shall be for a specific use or uses and shall not include waste lands, unless it is impractical to provide otherwise;
- (8) Mineral and metallic rights and surface and ground water shall be reserved to the State;
- (9) No lease of public lands, including submerged lands, nor any extension of any such lease, shall be issued by the State to any person to construct, use, or maintain a sunbathing or swimming pier or to use the lands for such purposes, unless such lease, or any extension thereof, contains provisions permitting the general public to use the pier facilities on the public lands and requiring that a sign or signs be placed on the pier, clearly visible to the public, which indicates the public's right to the use of such pier. The board shall, at the earliest practicable date, and where legally possible, cause all existing leases to be amended to conform to this paragraph. The term "lease", for the purposes of this paragraph,

ACT 197

shall include month to month rental agreements and similar tenancies.

(b) The board may, from time to time, upon the issuance or during the term of any intensive agricultural or special livestock lease, (1) modify or eliminate any of the foregoing restrictions, or (2) extend or modify the fixed rental period of the lease, or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State of Hawaii, and their respective successors and assigns or to qualify the lessee for any State loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided, further, that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term;
- (4) The rules and regulations of the board, setting forth any additional terms and conditions which will insure and promote the purposes of the demised lands."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval and may be applied retrospectively.

(Approved June 4, 1976.)

ACT 197

H.B. NO. 83

A Bill for an Act Relating to Improving the Organization and Coordination of Agricultural Programs and Programs Related to Agriculture.

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

SECTION 1. **Findings and declaration of necessity.** The legislature finds that:

- (1) Agriculture is one of Hawaii's most important industries. It has shaped Hawaii's past, maintains an important role in our present economy, and has impressive potential for the future. However, it is faced with both problems and opportunities of enormous significance to the continuing success of our economy and way of life. Events of the immediate

*Edited accordingly.

- future will determine whether agriculture can continue to provide a basis for a sound and thriving economy that will utilize our natural and human resources in harmony with the Hawaiian way of life.
- (2) The maintenance of agriculture as an important part of the Hawaiian economy and way of life and its orderly growth and development depend to a great extent on a planned and concerted effort to utilize our enormous natural and human resources. A well coordinated effort is required to ensure the optimum benefits from the utilization of our resources.
- (3) The planning and development efforts required in the agriculture sphere dictate the need for a deep and broad involvement of state government. Many of our natural and human resources can be fully utilized with the assistance of state government. Responsibility and authority for agriculture and agriculture-related programs already exist in the various agencies of state government to address the problems and opportunities of Hawaiian agriculture. However, an effective mechanism is necessary to bring about an orderly approach to agricultural programs that will unify and coordinate the responsibilities and programs of the various agencies of state government.
- (4) The problems and opportunities in agriculture require that the efforts of the state government are effectively coordinated. It is essential that the total efforts of the various agencies in the planning, research, development, and implementation of state agriculture and agriculture-related programs be effectively coordinated in order that the most effective and efficient use of resources is ensured. The means by which effective coordination can be achieved is through the establishment of an agriculture coordinating committee with sufficient authority and at a level which will make possible the coordinated management of all agriculture and agriculture-related programs.

SECTION 2. Establishment of the governor's agriculture coordinating committee. There is established, in the governor's office for administrative purposes, the governor's agriculture coordinating committee, whose membership shall include the administrative director to the governor, who shall be the chairperson, the director of planning and economic development, the chairperson of the board of land and natural resources, the chairperson of the board of agriculture, the director of transportation, the chairperson of the Hawaiian Homes Commission, two farmers one of whom shall be a representative of a recognized nonprofit association of farmers, and the dean of the college of tropical agriculture of the University of Hawaii. All members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of the duties and responsibilities of the committee.

SECTION 3. Powers and duties. The governor's agriculture coordinating committee shall:

- (1) Prepare and propose to the governor a state agriculture policy which, upon approval of the governor, shall serve as a guide for agricultural

- development in the State. The policy shall include but not be limited to a statement of objectives in the following areas: (A) commercial production, (B) processing, (C) distribution, (D) transportation, (E) marketing, (F) agricultural land and water use, (G) agricultural growth, diversification, and self-sufficiency, (H) agricultural pollution, and (I) agricultural research;
- (2) Coordinate and monitor all state agencies in their duties and responsibilities with respect to agriculture or agriculture-related projects or programs with a view to effect agricultural development in this State as set forth in the state agriculture policy;
 - (3) Coordinate all state agricultural activities as they relate to the federal and county governments, public and private organizations, and commercial enterprises;
 - (4) Coordinate and review (A) the preparation of agriculture and agriculture-related programs and projects proposed by all state agencies for submittal to the governor, (B) the preparation and submission of all departmental budgets as they relate to agriculture, (C) the activities of all departments to ensure timely and efficient implementation of all authorized agriculture and agriculture-related programs;
 - (5) Assist the governor in developing programs, projects, and plans to promote optimal development of agriculture, including criteria to measure program effectiveness;
 - (6) Conduct systematic analysis of all existing and proposed agriculture and agriculture-related programs, including evaluation of program analysis conducted by state agencies relating to agriculture;
 - (7) Recommend to the governor programs which represent the most effective allocation of resources for optimal development of agriculture;
 - (8) As the governor may determine, serve as members of all bodies established by the governor to consider allocation of state funds for agriculture or agriculture-related purposes;
 - (9) Contract for services when required for implementation of this Act; and
 - (10) Perform such other services as may be required by the governor and the legislature.

SECTION 4. Annual report. The governor's agriculture coordinating committee shall prepare and submit an annual report on its implementation of this Act to the governor and the legislature prior to each regular session.

SECTION 5. Personnel. The chairperson of the governor's agriculture coordinating committee may hire necessary personnel to carry out the purposes of this Act without regard to chapters 76 and 77.

SECTION 6. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary, for the purposes of this Act, to be expended by the office of the governor.

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

(Approved June 4, 1976.)

ACT 198

H.B. NO. 3261-76

A Bill for an Act Relating to Research, Development and Expansion of Agricultural Commodities.

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

SECTION 1. The legislature finds that agriculture continues to be one of Hawaii's most important industries, contributing immeasurably to the stability and growth of the State. The maintenance and growth of agriculture depend to a large extent on a concerted effort flowing from a planning framework which optimally utilizes the resources of both the public and private sectors. In recent years, that segment of agriculture known as diversified agriculture has demonstrated vast potential in terms of developmental possibilities and three sub-industries within diversified agriculture, the papaya industry, the anthurium and other cut flowers industry, and the ornamental foliage industry, have shown exceptional and highly promising growth potential not only for the local market but more importantly, for export markets throughout the world.

Legislative findings relating to the papaya industry. The legislature finds that one of the various enterprises in diversified agriculture in Hawaii, the papaya industry promises the greatest immediate growth potential in utilizing land, creating jobs, and improving the state export-import balance. Acres harvested have more than doubled in the last decade, rising from 790 in 1965 to 1,840 in 1975. During the same period, the value of sales increased from \$1.1 million to \$5.7 million, a five-fold increase. Projection to 1980 indicates a harvested acreage of nearly 4,000 acres and sales of \$15.6 million.

The legislature further finds that papaya marketing is concentrated in three broad destination markets: U.S. mainland, State of Hawaii, and foreign. To support marketing efforts, aggressive public relations, merchandising, advertising, and promotional support are needed. In order to properly develop each of these markets, especially the U.S. mainland, market research is needed to determine the market potential for papayas as well as the effectiveness of various forms of advertising and promotion. In addition, current market destination information and accurate production forecasts are needed to insure timely and effective advertising and promotional programs.

The legislature further finds that transportation is a major problem of the papaya industry and that it is a set of several interrelated problems. Air transportation, currently the major mode of shipment, is expensive and may not be able to provide adequate lift or market destination coverage from the production areas. Surface transportation is less expensive but the length of time in transit under current technological practices will not allow adequate shelf life for effective marketing. Current methods of packaging and handling are not satisfactory for shipment under conditions differing from the current small-lot air shipments. Current fumigation and treatment methods may not be satisfactory under large-lot shipments, impending environmental and safety restrictions.

The legislature further finds that as total production grows the volume of

*Edited accordingly.

papayas available for processing also grows since some fruit are not marketable as fresh fruit for various reasons. The expanded supply of this fruit will require additional research and development on adequate ways of processing these fruits.

Legislative findings relating to the anthurium and other cut flowers industry. The legislature finds that the anthurium industry in Hawaii has shown a steady growth in the past and its future growth is even more optimistic. The number of flowers sold has increased from 796,000 dozens in 1970 to 1,130,000 dozens in 1974, a sizeable increase of 42 per cent. The wholesale value of these flowers increased from \$943,000 to \$1,690,000, an increase of 79 per cent.

The anthurium fits very well into the State's plan to develop products for export. About 80 per cent of the anthuriums are exported to the mainland and foreign countries. Statistics of shipments to foreign countries are quite impressive. A recent survey of anthurium shippers indicated the following shipments: Japan—450 dozens per week; Germany—2,500 dozens per week; Italy—4,000 dozens per week; and Austria—100 dozens per week.

At the present time the anthurium industry has 265 acres under production. Employment consists of 95 full-time farmers and 235 part-time farmers.

Surveys of florists and consumers show that there is a very large market which could be developed on the mainland and foreign countries if the proper assistance were rendered to the industry in the way of promotion, research and transportation. This type of assistance is especially important to the industry because of high developmental costs. It is estimated that it costs \$28,000 to develop one acre of anthuriums. This includes land clearing, construction and materials of the growing sheds, mulching and bedfarming, labor, and cost of plants.

The expansion of the market for anthuriums is important for the following reasons: (1) to provide additional opportunities for investment in agricultural enterprises; (2) provide employment opportunities in diversified agriculture; (3) establish a firm market for our anthuriums; and (4) strengthen the economic base of the State's economy.

The legislature further finds that the anthurium markets are similar to those of the papaya industry: the local market in the State of Hawaii, the U.S. mainland, and foreign countries. Although these markets have been developing quite satisfactorily, there is a need to accelerate this market development because of the additional production that is expected to enter the market in the near future. The planting of 66 acres of anthuriums under artificial shading will be completed in the year 1976. In three years the production of this new acreage alone will result in an additional 52,800 dozens per month. An additional 28 acres are under consideration for planting within the next two or three years. These figures indicate the need for government support of a strong marketing and promotion effort for the anthurium industry.

The legislature further finds that transportation is also a major problem for the anthurium industry. Air transportation is the primary mode of shipment for anthuriums. However, the rising cost of air transportation is causing considerable concern among those in the industry. In addition, there is a problem of airlift capacity which involves other commodities such as papaya, ornamentals,

and even fresh fish. The exploration of improved methods of surface transportation as well as the development of a system of packaging and improved packing containers, are important needs of the industry.

Legislative findings relating to the ornamental foliage industry. The legislature finds that there exists an economic potential in the ornamental horticultural industry for expansion in the State of Hawaii for export market. There exists a necessity for significant increase in research, education, and development in: (1) culture and management, (2) cost of production, (3) post-harvest handling, (4) transportation, and (5) market organization and development.

The market for ornamental foliage plants in the United States is conservatively valued at \$150 million for 1975. Correspondingly, the wholesale value for nursery and potted foliages in Hawaii has increased 286 per cent during the five-year period ending December 1974. Because of our ideal climate, Hawaii has a comparative advantage over any other production area per unit. Depending upon the type of ornamental foliage plants, certain phases of the industry could be developed on all islands.

This sector of diversified horticulture appears to have tremendous potentials for economic growth, for its growth is in consonance with, or an adjunct to, tourism, urban development, export of goods to favor the State's balance of payments and raising the standard of living of the people engaged in agricultural industries.

The legislature affirms its continued support of programs designed to enhance the growth and development of diversified agriculture in the State. The provision of public funds for the maintenance of diversified agriculture as an important part of Hawaii's economy, necessitates from time to time, the infusion of public funds for purposes directly related to the achievement of these state goals.

The purpose of this Act is to provide the much needed support for research and development of the papaya industry, the anthurium and other cut flowers industry, and the ornamental foliage industry, three industries which have contributed significantly to Hawaii's economic stability and which hold exceptional promise for strong and continued support to Hawaii's overall economy.

SECTION 2. Appropriation. (a) The papaya industry. There is appropriated out of the general revenues of the State of Hawaii the sum of \$545,000 or so much thereof as may be necessary, for fiscal year 1976-77 to be expended in the following manner:

- (1) The sum of \$220,000 be expended by the department of planning and economic development to match expenditures of the papaya administrative committee which are related to promotional and advertising efforts.
- (2) The sum of \$25,000 be expended by the department of agriculture for the purpose of providing objective production forecasts; provided, that the department of agriculture may hire the necessary staff, purchase equipment, and expend the necessary operational funds needed to maintain the program; and provided further, that papaya growers make available to the department of agriculture all of the information needed, on a confidential basis.

- (3) The sum of \$62,000 be expended by the department of agriculture for the purpose of conducting research to determine the market potential for fresh and processed papaya products; provided, that the department of agriculture may contract with the college of tropical agriculture, University of Hawaii, to carry out the intent and purpose of the study; and provided further, that all papaya growers, handlers, and shippers make available, on a confidential basis, all of the information needed to conduct such research.
 - (4) The sum of \$50,000 be expended by the department of agriculture for the purpose of research and development of methods of processing papayas not marketable as fresh fruit; provided, that the department of agriculture shall contract the appropriate agency to conduct this research and development; and provided further, that the sums expended by the department of agriculture shall be made in consultation with the papaya administrative committee.
 - (5) The sum of \$188,000 be expended by the department of agriculture for the purpose of improving and expanding the system of harvesting, handling, and transporting papayas to the market; provided, that the department of agriculture shall contract those agencies best suited to carry out this research, development and educational project; provided further, that the sum of \$90,000 be utilized for developing and improving methods of surface transportation, \$38,000 be utilized for developing packaging and packing systems, \$17,000 be utilized for feasibility studies of the need for dockside or airport storage facilities and preliminary planning and design, \$15,000 be utilized for acquiring a mechanical harvester, \$5,000 be utilized for research and development of alternative methods of fumigation and treatment, and \$23,000 be utilized for education and information dissemination; and provided further, that the funds expended by the department of agriculture shall be made in consultation with the papaya administrative committee.
- (b) The anthurium and other cut flowers industry. There is appropriated out of the general revenues of the State of Hawaii the sum of \$229,000, or so much thereof as may be necessary, for a market development and promotion program, a market research program, and transportation and production research for the anthurium and other cut flowers industry, to be expended in the following manner:
- (1) The sum of \$92,000 be expended by the department of planning and economic development for the development and implementation of a marketing and promotion program.
 - (2) The sum of \$25,000 be expended by the department of planning and economic development for the purpose of coordinating research to determine the market potential for anthuriums and other cut flowers; provided that the department of planning and economic development may contract with the college of tropical agriculture, University of Hawaii, to carry out the intent and purpose of the study.
 - (3) The sum of \$62,000 be expended by the department of agriculture to research and develop improved methods of transportation and han-

dling of anthuriums and other cut flowers; provided that the department of agriculture shall contract with those agencies which are best suited to conduct this type of research and development; provided further, that the sum of \$18,000 be utilized to develop and improve methods of surface transportation, and \$44,000 be utilized to develop a system of packaging and packing containers; provided further, that in the conduct of the transportation and handling studies for anthuriums and other cut flowers, efforts should be encouraged to tie in the study of other cut flowers wherever it is deemed feasible; and provided further, that all growers and shippers of anthuriums and other cut flowers benefiting from this research shall report their volume and value of sales to the department of agriculture on a regular basis, not to be more frequently than once a month, and the department of agriculture shall keep this information confidential.

(4) The sum of \$50,000 be expended by the department of agriculture for research on the improvement of production of anthuriums and other cut flowers; provided that the department of agriculture shall contract with the college of tropical agriculture, University of Hawaii to conduct this research.

(c) The ornamental foliage industry. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary, for the research and development of the ornamental plant industry; provided the sum appropriated shall be expended jointly by the college of tropical agriculture, University of Hawaii, the department of planning and economic development, and the department of agriculture with the college of tropical agriculture serving as the lead agency; and provided further that all growers and shippers of ornamental foliage benefiting from the research activities supported by appropriations made by this Act shall report their volume and value of sales to the department of agriculture on a regular basis, not to be more frequently than once a month, and the department of agriculture shall keep this information confidential.

SECTION 3. The sums appropriated shall be expended as provided in section 2 of this Act for the purposes of this Act; provided that the expending agencies designated in section 2 of this Act shall consult with the office of the governor prior to authorizing the release of any funds; provided that the sums appropriated for the advertising and promotion of anthuriums, cut flowers and ornamentals shall be expended on a nonmatching basis and provided further that any unexpended funds as of the end of fiscal year 1976-77 shall revert to the general fund of the State of Hawaii.

SECTION 4. This Act shall take effect on July 1, 1976.

(Approved June 4, 1976.)

SECTION 1. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"Sec. 205- Permissible uses within the agricultural districts. (a) Within the agricultural district all lands with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;
Farm dwelling as used herein shall mean a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.
- (5) Public institutions and buildings which are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines, and roadways, transformer stations, solid waste transfer stations, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants and major storage tanks not ancillary to agricultural practices, or corporation yards or other like structures;
- (8) Retention, restoration, rehabilitation or improvement of buildings or sites of historic or scenic interest;
- (9) Roadside stands for the sale of agricultural products grown on the premises;
- (10) Buildings and uses, including but not limited to mills, storage and processing facilities, maintenance facilities that are normally considered direct accessory to the abovementioned uses; or
- (11) Agricultural parks.
(b) Uses not expressly permitted in this section 205- (a) shall be prohibited, except the uses permitted as provided in section 205-6 and section 205-8, and construction of single-family dwellings on lots existing before the effective date of this Act. Any other law to the contrary notwithstanding no subdivision of land within the agricultural district with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be approved by a county unless the said A and Blands within the subdivision shall be made subject to the restriction on uses as prescribed in this section and to the condition that the uses shall be primarily in pursuit of an agricultural activity.

Any deed, lease, agreement of sale, mortgage or other instrument of conveyance covering any land within the agricultural subdivision shall expressly contain the restriction on uses and the condition as prescribed in this section which restriction and condition shall be encumbrances running with the land until such time that the land is reclassified to a land use district other than agricultural district.

If the foregoing requirement of encumbrances running with the land jeopardizes the owner or lessee from obtaining mortgage financing from any of the mortgage lending agencies set forth hereinbelow, and said requirement is the sole reason for failure to obtain mortgage financing, then such requirement of encumbrances shall, insofar as such mortgage financing is so jeopardized, be conditionally waived by the appropriate county enforcement officer; provided that such conditional waiver shall thereafter become effective only in the event that the property is subjected to foreclosure proceedings by the mortgage lender.

The mortgage lending agencies mentioned hereinabove are the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any other federal, state or private mortgage lending agency qualified to do business in Hawaii, and their respective successors and assigns.

(c) Within the agricultural district all lands, with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class C,D, E, or U shall be restricted to the uses permitted for agricultural districts as set forth in section 205-5(b).

SECTION 2. Sec. 205-12, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 205-12 Enforcement. The appropriate officer or agency charged with the administration of county zoning laws shall enforce within each county the use classification districts adopted by the land use commission and the restriction on use and the condition relating to agricultural districts under section 205- and shall report to the commission all violations."

SECTION 3. Sec. 205-13, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 205-13 Penalty for violation. Any person who violates any provision under section 205-, or any regulation established relating thereto, shall be fined not more than \$5,000, and any person who violates any other provision of this chapter, or any regulation established relating thereto, shall be fined not more than \$1,000.

If any person cited for a violation under this chapter fails to remove such violation within six months of such citation and the violation continues to exist, such person shall be subject to a citation for a new and separate violation. There shall be a fine not more than \$5,000 for any additional violation.

Prior to the issuance of any citation for a violation, the appropriate enforcement officer or agency shall notify the violator and the mortgagee, if any, of such violation, and the violator or the mortgagee, if any, shall have not more than

ACT 200

60 days to cure the violation before citation for a violation is issued."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 4, 1976)

ACT 200

S.B. NO. 79

A Bill for an Act Relating to the Uniform Probate Code.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding the Uniform Probate Code to be codified and to read as follows:

"UNIFORM PROBATE CODE ARTICLE 1 GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION OF COURT

PART 1. SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS

Sec. 1-101 Short title. This chapter shall be known and may be cited as the Uniform Probate Code.

Sec. 1-102 Purposes; rule of construction. (a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(b) The underlying purposes and policies of this chapter are:

- (1) To simplify and clarify the law concerning the affairs of decedents, missing persons, protected persons, minors and incapacitated persons;
- (2) To discover and make effective the intent of a decedent in distribution of his property;
- (3) To promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to his successors;
- (4) To facilitate use and enforcement of certain trusts;
- (5) To make uniform the law among the various jurisdictions.

Sec. 1-103 Supplementary general principles of law applicable. Unless displaced by the particular provisions of this chapter, the principles of the common law of the State of Hawaii supplement its provisions.

Sec. 1-104 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect

*Edited accordingly.

without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Sec. 1-105 Construction against implied repeal. This chapter is a general act intended as a unified coverage of its subject matter and no part of it shall be deemed impliedly repealed by subsequent legislation if it can reasonably be avoided.

Sec. 1-106 Effect of fraud and evasion. Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this chapter or if fraud is used to avoid or circumvent the provisions or purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person (other than a bona fide purchaser) benefitting from the fraud, whether innocent or not. Any proceeding must be commenced within six years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during his lifetime which affects the succession of his estate.

Sec. 1-107 Evidence as to death or status. In proceedings under this chapter the rules of evidence in courts of general jurisdiction including any relating to simultaneous deaths, are applicable unless specifically displaced by the chapter. In addition, the following rules relating to determination of death and status are applicable:

- (1) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is *prima facie* proof of the fact, place, date and time of death and the identity of the decedent;
- (2) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive is *prima facie* evidence of the status and of the dates, circumstances and places disclosed by the record or report;
- (3) A person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

Sec. 1-108 Acts by holder of general power. For the purpose of granting consent or approval with regard to the acts or accounts of a personal representative or trustee, including relief from liability or penalty for failure to post bond, to register a trust, or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all co-holders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent their interests (as objects, takers in default, or otherwise) are subject to the power. The settlor of a revocable inter vivos trust may direct the trustee in writing not to register the trust, reveal the terms to

beneficiaries, or account to beneficiaries, and the trustee shall abide by such direction; provided, however, any such direction shall only be effective, and shall only relieve the trustee from the duty to register and to keep beneficiaries informed, during the life of the settlor.

PART 2. DEFINITIONS

Sec. 1-201 General definitions. Subject to additional definitions contained in the subsequent Articles which are applicable to specific Articles or parts, and unless the context otherwise requires, in this chapter:

- (1) "Application" means a written request to the registrar for an order of informal probate or appointment under Part 3 of Article III.
- (2) "Beneficiary", as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.
- (3) "Child" includes any individual entitled to take as a child under this chapter by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.
- (4) "Claims", in respect to estates of decedents and protected persons, include liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a guardian of the property, including funeral expenses and expenses of administration. Except as indicated in section 3-805, the term does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.
- (5) "Court" means the circuit court having jurisdiction in matters relating to trusts and the estates of decedents, missing persons, protected persons, minors and incapacitated persons.
- (6) "Conservator" means a guardian of the property.
- (7) "Devise", when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.
- (8) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.
- (9) "Disability" means cause for a protective order as described by section 5-401.
- (10) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed

- property received from a personal representative is a distributee of the personal representative. For the purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.
- (11) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time during administration.
 - (12) "Exempt property" means that property of a decedent's estate which is described in section 2-402.
 - (13) "Fiduciary" includes personal representative, guardian, guardian of the property and trustee.
 - (14) "Foreign personal representative" means a personal representative of another jurisdiction.
 - (15) "Formal proceedings" mean those conducted before a judge with notice to interested persons.
 - (16) "General personal representative" means a personal representative excluding special administrator.
 - (17) "Guardian ad litem" means a person who is appointed by the court to represent the interests of another person in a proceeding.
 - (18) "Guardian of the person" means a person who has been appointed pursuant to sections 5-204 and 5-304.
 - (19) "Guardian of the property" means a person who has been appointed pursuant to section 5-401.
 - (20) "Guardianship proceeding" is as defined in section 5-101.
 - (21) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.
 - (22) "Incapacitated person" is as defined in section 5-101.
 - (23) "Informal proceedings" mean those probate proceedings conducted pursuant to Part 3 of Article III.
 - (24) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, or guardian, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.
 - (25) "Issue" of a person means all his lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this chapter.
 - (26) "Lease" includes an oil, gas, or other mineral lease.
 - (27) "Letters" include letters testamentary, letters of guardianship, and letters of administration.
 - (28) "Minor" means a person who is under eighteen years of age.
 - (29) "Mortgage" means any conveyance, agreement or arrangement in

- which property is used as security.
- (30) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.
- (31) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal entity.
- (32) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this chapter by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.
- (33) "Person" means an individual, a corporation, an organization, or other legal entity.
- (34) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.
- (35) "Petition" means a written request to the court for an order after notice.
- (36) "Probate proceeding" means a proceeding designed to effect the settlement of the estate of a decedent by collecting his assets, paying his debts and distributing his remaining property.
- (37) "Proceeding" includes all civil actions.
- (38) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.
- (39) "Protected person" is as defined in section 5-101.
- (40) "Protective proceeding" is as defined in section 5-101.
- (41) "Registrar" refers to the judge of the court designated by the judicial circuit to perform the functions of registrar as provided in section 1-307 or his appointee under section 1-307.
- (42) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.
- (43) "Settlement", in reference to a decedent's estate, includes the full process of administration, distribution and closing.
- (44) "Special administrator" means a personal representative as described in sections 3-614 through 3-618.
- (45) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.
- (46) "Successor personal representative" means a personal representative,

- other than a special administrator, who is appointed to succeed a previously appointed personal representative.
- (47) "Successors" mean those persons, other than creditors, who are entitled to property of a decedent under his will or this chapter.
- (48) "Supervised administration" refers to the probate proceedings described in Article III, Part 5.
- (49) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.
- (50) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, personal representatives, trust accounts as defined in Article VI, custodial arrangements pursuant to chapter 553, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.
- (51) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.
- (52) "Ward" is as defined in section 5-101.
- (53) "Will" includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

PART 3. SCOPE, JURISDICTION AND COURTS

Sec. 1-301 Territorial application. Except as otherwise provided in this chapter, this chapter applies to (1) the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this State; (2) the property of nonresidents located in this State or property coming into the control of a fiduciary who is subject to the laws of this State; (3) incapacitated persons and minors in this State; (4) survivorship and related accounts in this State; and (5) trusts subject to administration in this State.

Sec. 1-302 (Reserved)

Sec. 1-303 Venue; multiple proceedings; transfer. (a) A proceeding under this chapter may be maintained in any circuit of this State.

(b) If proceedings concerning the same estate, protected person, ward, or trust are commenced in more than one court of this State, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.

(c) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this State, the court making the finding may transfer the proceeding or file to the other court.

Sec. 1-304 (Reserved)

Sec. 1-305 Records and certified copies. The clerk of court shall keep a record for each decedent, ward, protected person or trust involved in any document which may be filed with the court under this chapter, including petitions and applications, demands for notices or bonds, trust registrations, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing or recording which is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record of paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this State and whether the probate was supervised or informal. Certificates relating to letters must show the date of appointment.

Sec. 1-306 Jury trial. (a) If duly demanded, a party is entitled to trial by jury in a formal testacy proceeding and any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury.

(b) If there is no right to trial by jury under subsection (a) or the right is waived, the court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only.

Sec. 1-307 Registrar; powers. The acts and orders which this chapter specifies as performable by the registrar may be performed either by a judge of the court or by a person, including the clerk, designated by the court by a written order filed and recorded in the office of the court.

Sec. 1-308 (Reserved)

Sec. 1-309 (Reserved)

Sec. 1-310 Oath or affirmation on filed documents. Except as otherwise specifically provided in this chapter or by rule, every document filed with the court under this chapter including applications, petitions, and demands for notice, shall be deemed to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed, and penalties for perjury may follow deliberate falsification therein.

PART 4. NOTICE, PARTIES AND REPRESENTATION

Sec. 1-401 Notice; method and time of giving. (a) If notice is required and except for specific notice requirements as otherwise provided, the applicant or petitioner shall cause notice to be given to any interested person or his attorney if he has appeared by attorney or requested that notice be sent to his attorney. Notice shall be given:

- (1) By mailing a copy thereof at least fourteen days before the time set for the hearing by certified or registered mail, return receipt requested, deliverable to the addressee only, addressed to the person being notified at the post office address given in his demand for notice, if any, or at his office or place of residence, if known; or
- (2) By serving or delivering a copy thereof to the person being notified

personally at least fourteen days before the time set for the hearing; or
 (3) If the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for three consecutive weeks, a copy thereof in a newspaper having general circulation in the judicial circuit where the hearing is to be held or the probate proceedings are being maintained, the last publication of which is to be at least ten days before the time set for either the hearing or the registrar's granting of informal proceedings.

(b) The court for good cause shown may provide for a different method or time of giving notice.

(c) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.

Sec. 1-402 Notice; waiver. A person, including a guardian ad litem, guardian of the property, or other fiduciary, may waive notice by a writing signed by him or his attorney and filed in the proceeding.

Sec. 1-403 Pleadings; when parties bound by others; notice. In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons, and in judicially supervised settlements, the following apply:

- (1) Interests to be affected shall be described in pleadings which give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.
- (2) Persons are bound by order binding others in the following cases:
 - (i) Orders binding the sole holder or all co-holders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests (as objects, takers in default, or otherwise) are subject to the power.
 - (ii) To the extent there is no conflict of interest between them or among persons represented, orders binding a guardian of the property bind the person whose estate he controls; orders binding a guardian of the person bind the ward if no guardian of the property of his estate has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no guardian of the property or guardian of the person has been appointed, a parent may represent his minor child.
 - (iii) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another party having a substantially identical interest in the proceeding.

- (3) Notice is required as follows:
- (i) Notice is prescribed by section 1-401 shall be given to every interested person or to one who can bind an interested person as described in (2) (i) or (2) (ii) above. Notice may be given both to a person and to another who may bind him.
 - (ii) Notice is given to unborn or unascertained persons, who are not represented under (2) (i) or (2) (ii) above, by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.
- (4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding.

ARTICLE II INTESTATE SUCCESSION AND WILLS

PART 1. INTESTATE SUCCESSION

Sec. 2-101 Intestate estate. Any part of the estate of a decedent not effectively disposed of by his will passes to his heirs as prescribed in the following sections of this chapter.

Sec. 2-102 Share of the spouse. The intestate share of the surviving spouse is:

- (1) If there is no surviving issue or parent of the decedent or children of parents of the decedent, the entire intestate estate;
- (2) If there is surviving issue or parent of the decedent or children of parents of the decedent, one-half of the intestate estate.

Sec. 2-103 Share of heirs other than surviving spouse. The part of the intestate estate not passing to the surviving spouse under section 2-102, or the entire intestate estate if there is no surviving spouse, passes as follows:

- (1) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;
- (2) If there is no surviving issue, to his parent or parents equally;
- (3) If there is no surviving issue or parent to the issue of the parents or either of them; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;
- (4) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, the estate passes either in equal shares to the grandparents, or to the

surviving grandparent, or in equal shares to the issue of equal degree of the grandparents if all grandparents are deceased, but no person shall be entitled by right of representation to the shares of the issue of the grandparents who have died; provided, that to the extent to which the estate comes from either set of grandparents of the decedent, those grandparents or their issue shall take to the exclusion of the other set of grandparents or their issue regardless of the degree of kinship unless this provision would cause an escheat to the State.

Sec. 2-104 (Reserved)

Sec. 2-105 No taker. If there is no taker under the provisions of this Article, the intestate estate passes to the State.

Sec. 2-106 Representation. If representation is called for by this chapter, the estate is divided into as many shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survive the decedent, each surviving heir in the nearest degree receiving one share and the share of each deceased person in the same degree being divided among his issue in the same manner.

Sec. 2-107 Kindred of half blood. Relatives of the half blood inherit the same share they would inherit if they were of the whole blood; provided, that, to the extent to which the estate came to the decedent by descent, devise or gift from some one of his ancestors, all those who are not of the blood of ancestor shall be excluded from such estate.

Sec. 2-108 Afterborn heirs. Relatives of the decedent conceived before his death but born thereafter inherit as if they had been born in the lifetime of the decedent.

Sec. 2-109 Meaning of child and related terms. If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

- (1) An adopted person is the child of an adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and either natural parent.
- (2) In cases not covered by (1), a person is the child of its parents regardless of the marital status of its parents and the parent and child relationship may be established under chapter 584.

Sec. 2-110 Advancements. If a person dies intestate as to all his estate, property which he gave in his lifetime to an heir is treated as an advancement against the latter's share of the estate only if declared in a contemporaneous writing by the decedent or acknowledged in writing by the heir to be an advancement. For this purpose the property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the decedent, whichever first occurs. If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the intestate share to be received by the recipient's issue, unless the declaration or acknowledgment provides otherwise.

ACT 200

Sec. 2-111 Debts to decedent. A debt owed to the decedent is not charged against the intestate share of any person except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's issue.

Sec. 2-112 Alienage. No person is disqualified to take as an heir because he or a person through whom he claims is or has been an alien.

Sec. 2-113 (Reserved)

Sec. 2-114 Persons related to decedent through two lines. A person who is related to the decedent through two lines of relationship is entitled to only a single share based on the relationship which would entitle him to the larger share.

PART 2. ELECTIVE SHARE OF SURVIVING SPOUSE

Sec. 2-201 Right to elective share. (a) If a married person domiciled in this State dies, the surviving spouse has a right of election to take an elective share of one-third of the net estate under the limitations and conditions hereinafter stated.

(b) If a married person not domiciled in this State dies, the right, if any, of the surviving spouse to take an elective share in property in this State is governed by the law of the decedent's domicile at death.

Sec. 2-202 Net estate. The net estate means the estate which would, in the absence of the surviving spouse's election under section 2-205, be disposed of by the decedent's will or by intestate succession, reduced by all enforceable claims as specified in section 3-805.

Sec. 2-203 Right of election personal to surviving spouse. The right of election of the surviving spouse may be exercised only during his lifetime by him. In the case of a protected person, the right of election may be exercised only by order of the court in which protective proceedings as to his property are pending, after finding that exercise is necessary to provide adequate support for the protected person during his probable life expectancy.

Sec. 2-204 Waiver of right to elect and of other rights. The right of election of a surviving spouse and the rights of the surviving spouse to homestead allowance, exempt property and family allowance, or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement or waiver signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights" (or equivalent language) in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights to elective share, homestead allowance, exempt property and family allowance by each spouse in the property of the other and a renunciation by each of all benefits which would otherwise pass to him from the other by intestate succession or by virtue of the provisions of any will executed before the waiver or property settlement.

Sec. 2-205 Proceeding for elective share; time limit. (a) The surviving spouse may elect to take his elective share in the net estate by filing in the court and mailing or delivering to the personal representative a petition for the elective share within nine months after the date of death, or within six months after the

probate of the decedent's will, whichever limitation last expires. The court may extend the time for election as it sees fit for cause shown by the surviving spouse before the time for election has expired.

(b) The surviving spouse shall give notice of the time and place set for hearing to persons interested in the estate.

(c) The surviving spouse may withdraw his demand for an elective share at any time before entry of a final determination by the court.

(d) After notice and hearing, the court shall determine the amount of the elective share and shall order its payment from the assets of the net estate.

Sec. 2-206 Effect of election on benefits by will or statute. A surviving spouse is entitled to homestead allowance, exempt property and family allowance whether or not he elects to take an elective share.

Sec. 2-207 Charging spouse with gifts received; liability of others for balance of elective share. (a) In the proceeding for an elective share, property which is part of the net estate which passes to the surviving spouse by testate or intestate succession, or which would have so passed to the spouse but is renounced, is applied first to satisfy the elective share and to reduce the amount due from the remaining estate.

(b) Remaining property of the net estate is so applied that liability for the balance of the elective share of the surviving spouse is equitably apportioned among the recipients of the net estate in proportion to the value of their interests therein.

PART 3. SPOUSE AND CHILDREN UNPROVIDED FOR IN WILLS

Sec. 2-301 Omitted spouse. (a) If a testator fails to provide by will for his surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive the same share of the estate he would have received if the decedent left no will unless it appears from the will that the omission was intentional or the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

(b) In satisfying a share provided by this section, the devises made by the will abate as provided in section 3-902.

Sec. 2-302 Pretermitted children. (a) If a testator fails to provide in his will for any of his children born or adopted after the execution of his will, the omitted child receives a share in the estate equal in value to that which he would have received if the testator had died intestate unless:

- (1) It appears from the will that the omission was intentional;
- (2) When the will was executed the testator had one or more children and devised substantially all his estate to the other parent of the omitted child; or
- (3) The testator provided for the child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

(b) If at the time of execution of the will the testator fails to provide in his

will for a living child solely because he believes the child to be dead, the child receives a share in the estate equal in value to that which he would have received if the testator had died intestate.

(c) In satisfying a share provided by this section, the devises made by the will abate as provided in section 3-902.

PART 4. EXEMPT PROPERTY AND ALLOWANCES

Sec. 2-401 Homestead allowance. A surviving spouse of a decedent who was domiciled in this State is entitled to a homestead allowance of \$5,000. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to \$5,000 divided by the number of minor and dependent children of the decedent. The homestead allowance has priority as specified in section 3-805. The homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share.

Sec. 2-402 Exempt property. In addition to the homestead allowance, the surviving spouse of a decedent who was domiciled in this State is entitled from the estate to value in kind not exceeding \$5,000 in excess of any security interests therein in household furniture, automobiles, furnishings, appliances and personal effects. If there is no surviving spouse, children of the decedent are entitled jointly to such property of the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than \$5,000, or if there is not \$5,000 worth of exempt property in the estate, the spouse or children are not entitled to other assets of the estate, if any, to the extent necessary to make up the \$5,000 value. Rights to exempt property have priority as specified in section 3-805. These rights are in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession, or by way of elective share.

Sec. 2-403 Family allowance. In addition to the right to homestead allowance and exempt property, if the decedent was domiciled in this State, the surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by him are entitled to a reasonable allowance in money out of the estate up to \$6,000 for their maintenance during the period of administration, which allowance may not continue for longer than one year if the estate is inadequate to discharge allowed claims. The allowance may be paid as a lump sum or in periodic installments. It is payable to the surviving spouse, if living, for the use of the surviving spouse and minor and dependent children; otherwise to the children, or persons having their care and custody; but in case any minor child or dependent child is not living with the surviving spouse, the allowance may be made partially to the child or his guardian or other person having his care and custody, and partially to the spouse, as their needs may appear. The family allowance has priority as specified in section 3-805.

The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise

provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates his right to allowances not yet paid.

Sec. 2-404 Source, determination and documentation. If the estate is otherwise sufficient, property specifically devised is not used to satisfy rights to homestead and exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there are no guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. He may determine the family allowance in a lump sum not exceeding \$6,000 or periodic installments not exceeding \$500 per month for one year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined, but may in no event provide for a family allowance larger than \$6,000.

PART 5. WILLS

Sec. 2-501 Who may make a will. Any person eighteen or more years of age who is of sound mind may make a will.

Sec. 2-502 Execution. Except as provided for writings within section 2-513 and wills within section 2-506, every will shall be in writing signed by the testator or in the testator's name by some other person in the testator's presence and by his direction, and shall be signed by at least two persons each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will.

Sec. 2-503 (Reserved)

Sec. 2-504 Self-proved will. An attested will may at the time of its execution or at any subsequent date be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content as follows:

THE STATE OF _____

COUNTY OF _____

We, _____,

, and _____,

the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his

last will and that he had signed willingly or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time eighteen or more years of age, of sound mind and under no constraint or undue influence.

Testator

Witness

Witness

Subscribed, sworn to and acknowledged before me by _____,
the testator, and subscribed and sworn to before me by _____
and _____, witnesses, this _____ day
of _____.

(SEAL) (Signed) _____

(Official capacity of officer)

Sec. 2-505 Who may witness. (a) Any person generally competent to be a witness may act as a witness to a will.

(b) A will or any provision thereof is not invalid because the will is signed by an interested witness.

Sec. 2-506 Choice of law as to execution. A written will is valid if executed in compliance with section 2-502 or if its execution complies with the law at the time of execution of the place where the will is executed, or of the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode or is a national.

Sec. 2-507 Revocation by writing or by act. (a) A will or any part thereof is revoked by a subsequent will which revokes the prior will or part expressly or by inconsistency.

(b) A will is also revoked by being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in his presence and by his direction.

Sec. 2-508 Revocation by divorce; no revocation by other changes of circumstances. If after executing a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, guardian of the property, or guardian of the person, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by testator's remarriage to the

former spouse. For purposes of this section, divorce or annulment means any divorce or annulment which would exclude the spouse as a surviving spouse within the meaning of section 2-802(b). A decree of separation which does not terminate the status of husband and wife is not a divorce for purposes of this section. No change of circumstances other than as described in this section revokes a will.

Sec. 2-509 Revival of revoked will. (a) If a second will which, had it remained effective at death, would have revoked the first will in whole or in part, is thereafter revoked by acts under section 2-507, the first will is revoked in whole or in part unless the first will is re-executed by the testator pursuant to section 2-502.

(b) If a second will which, had it remained effective at death, would have revoked the first will in whole or in part, is thereafter revoked by a third will, the first will is revoked in whole or in part, except to the extent it appears from the terms of the third will that the testator intended the first will to take effect.

Sec. 2-510 Incorporation by reference. Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

Sec. 2-511 Testamentary additions to trusts. A devise or bequest, the validity of which is determinable by the law of this State, may be made by a will to the trustee of a trust established or to be established by the testator or by the testator and some other person or by some other person (including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts) if the trust is identified in the testator's will and its terms are set forth in a written instrument (other than a will) executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator (regardless of the existence, size, or character of the corpus of the trust). The devise is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised (1) is not deemed to be held under a testamentary trust of the testator but becomes a part of the trust to which it is given and (2) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator (regardless of whether made before or after the execution of the testator's will), and, if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator causes the devise to lapse.

Sec. 2-512 Events of independent significance. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

Sec. 2-513 Separate writing identifying bequest of tangible property. A

will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money, evidences of indebtedness, documents of title, and securities, and property used in trade or business. If such written statement or list is incorporated by reference in the will pursuant to section 2-510, it may be subsequently amended without satisfying the requirements of section 2-502 if the amendment is in the handwriting of the testator and is signed by him.

PART 6. RULES OF CONSTRUCTION

Sec. 2-601 (Reserved)

Sec. 2-602 (Reserved)

Sec. 2-603 Rules of construction and intention. The intention of a testator as expressed in his will controls the legal effect of his dispositions. The rules of construction expressed in the succeeding sections of this Part apply unless a contrary intention is indicated by the will.

Sec. 2-604 Construction that will passes all property; after-acquired property. A will is construed to pass all property which the testator owns at his death including property acquired after the execution of the will.

Sec. 2-605 Anti-lapse; deceased devisee; class gifts. If a devisee who is a grandparent or a lineal descendant of a grandparent of the testator is dead at the time of execution of the will, or fails to survive the testator, or is treated as if he predeceased the testator, the issue of the deceased devisee who survive the testator take in place of the deceased devisee and if they are all of the same degree of kinship to the devisee they take equally, but if of unequal degree then those of more remote degree take by representation. One who would have been a devisee under a class gift if he had survived the testator is treated as a devisee for purposes of this section whether his death occurred before or after the execution of the will.

Sec. 2-606 Failure of testamentary provision. (a) Except as provided in section 2-605 if a devise other than a residuary devise fails for any reason, it becomes a part of the residue.

(b) Except as provided in section 2-605 if the residue is devised to two or more persons and the share of one of the residuary devisees fails for any reason, his share passes to the other residuary devisee, or to other residuary devisees in proportion to their interests in the residue.

Sec. 2-607 Change in securities; accessions; nonademption. (a) If the testator intended a specific devise of certain securities rather than the equivalent value thereof, the specific devisee is entitled only to:

- (1) As much of the devised securities as is a part of the estate at time of the testator's death;
- (2) Any additional or other securities of the same entity owned by the testator by reason of action initiated by the entity excluding any acquired by exercise of purchase options;
- (3) Securities of another entity owned by the testator as a result of a merger, consolidation, reorganization or other similar action initiated by the entity; and

- (4) Any additional securities of the entity owned by the testator as a result of a plan of reinvestment if it is a regulated investment company.
- (b) Distributions prior to death with respect to a specifically devised security not provided for in subsection (a) are not part of the specific devise.

Sec. 2-608 Nonademption of specific devises in certain cases; unpaid proceeds of sale, condemnation or insurance; sale by guardian of the property.

(a) A specific devisee has the right to the remaining specifically devised property and:

- (1) Any balance of the purchase price (together with any security interest) owing from a purchaser to the testator at death by reason of sale of the property;
- (2) Any amount of a condemnation award for the taking of the property unpaid at death;
- (3) Any proceeds unpaid at death on fire or casualty insurance on the property; and
- (4) Property owned by testator at his death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised obligation.

(b) If specifically devised property is sold by a guardian of the property, or if a condemnation award or insurance proceeds are paid to a guardian of the property as a result of condemnation, fire, or casualty, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the condemnation award, or the insurance proceeds. This subsection does not apply if subsequent to the sale, condemnation, or casualty, it is adjudicated that the disability of the testator has ceased and the testator survives the adjudication by one year. The right of the specific devisee under this subsection is reduced by any right he has under subsection (a).

Sec. 2-609 Non-exoneration. A specific devise passes subject to any security interest existing at the date of death, without right of exoneration, regardless of a general directive in the will to pay debts.

Sec. 2-610 Exercise of power of appointment. A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

Sec. 2-611 Construction of generic terms to accord with relationships as defined for intestate succession. Halfbloods, adopted persons and persons born out of wedlock are included in class gift terminology and terms of relationship in accordance with rules for determining relationship for purposes of intestate succession, as provided in sections 2-107 and 2-109.

Sec. 2-612 Ademption by satisfaction. Property which a testator gave in his lifetime to a person is treated as a satisfaction of a devise to that person in whole or in part, only if the will provides for deduction of the lifetime gift, or the testator declares in a contemporaneous writing that the gift is to be deducted from the devise or is in satisfaction of the devise, or the devisee acknowledges in

writing that the gift is in satisfaction. For purpose of partial satisfaction, property given during lifetime is valued as of the time the devisee came into possession or enjoyment of the property or as of the time of death of the testator, whichever occurs first.

PART 7. CONTRACTUAL ARRANGEMENTS RELATING TO DEATH

Sec. 2-701 Contracts concerning succession. A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if executed after the effective date of this chapter, can be established only by (1) provisions of a will stating material provisions of the contract; (2) an express reference in a will to a contract and extrinsic evidence proving the terms of the contract; or (3) a writing signed by the decedent evidencing the contract. The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

PART 8. GENERAL PROVISIONS

Sec. 2-801 Renunciation of succession. (a) A person or the representative of an incapacitated or protected person, who is an heir, devisee, person succeeding to a renounced interest, beneficiary under a testamentary instrument, or appointee under a power of appointment exercised by a testamentary instrument, may renounce in whole or in part the right of succession to any property or interest therein, including a future interest, by filing a written renunciation under this section. The right to renounce does not survive the death of the person having it. The instrument shall (1) describe the property or interest renounced, (2) declare the renunciation and extent thereof, and (3) be signed by the person renouncing.

(b) (1) An instrument renouncing a present interest shall be filed not later than six months after the death of the decedent or the donee of the power.

(2) An instrument renouncing a future interest shall be filed not later than six months after the event that determines that the taker of the property or interest is finally ascertained and his interest indefeasibly vested.

(3) The renunciation shall be filed in the court of the judicial circuit in which proceedings have been commenced for the administration of the estate of the deceased owner or deceased donee of the power or, if they have not been commenced, in which they could be commenced. A copy of the renunciation shall be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary of the decedent or donee of the power. If real property or an interest therein is renounced, a copy of the renunciation may be recorded or filed in the bureau of conveyances or the office of the assistant registrar of the land court, as appropriate.

(c) Unless the decedent or donee of the power has otherwise provided, the property or interest renounced devolves as if the person renouncing had predeceased the decedent or, if the person renouncing is designated to take under a power of appointment exercised by a testamentary instrument, as if the person

renouncing had predeceased the donee of the power. A future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced takes effect as if the person renouncing had predeceased the decedent or the donee of the power. A renunciation relates back for all purposes to the date of the death of the decedent or the donee of the power.

- (d) (1) The right to renounce property or an interest therein is barred by (A) an assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor, (B) a written waiver of the right to renounce, (C) an acceptance of the property or interest or benefit thereunder, or (D) a sale of the property or interest under judicial sale made before the renunciation is effected.
- (2) The right to renounce exists notwithstanding any limitation on the interest of the person renouncing in the nature of a spendthrift provision or similar restriction.
- (3) The renunciation or the written waiver of the right to renounce is binding upon the person renouncing or person waiving and all persons claiming through or under him.
- (e) This section does not abridge the right of a person to waive, release, disclaim, or renounce property or an interest therein under any other statute.
- (f) An interest in property existing on the effective date of this section as to which, if a present interest, the time for filing a renunciation under this section has not expired, or if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be renounced within six months after the effective date of this section.

Sec. 2-802 Effect of divorce, annulment, and decree of separation. (a) A person who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, he is married to the decedent at the time of death. A decree of separation which does not terminate the status of husband and wife is not a divorce for purposes of this section.

(b) For purposes of Parts 1, 2, 3 and 4 of this Article and of section 3-203, a surviving spouse does not include:

- (1) A person who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this State, unless they subsequently participate in a marriage ceremony purporting to marry each to the other, or subsequently live together as man and wife;
- (2) A person who, following a decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third person; or
- (3) A person who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

Sec. 2-803 Effect of homicide on intestate succession, wills, joint assets, life insurance and beneficiary designations. (a) A surviving spouse, heir or devisee who feloniously and intentionally or knowingly kills the decedent in violation of sections 701 and 702(1) (b) of the Penal Code is not entitled to any

ACT 200

benefits under the will or under this Article, and the estate of decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.

(b) Any joint tenant who feloniously and intentionally or knowingly kills another joint tenant in violation of sections 701 and 702(1)(b) of the Penal Code thereby effects a severance of the interest of the decedent so that the share of the decedent passes as his property and the killer has no rights by survivorship. This provision applies to joint tenancies and tenancies by the entirety in real and personal property, joint accounts in banks, savings and loan associations, credit unions and other institutions, and any other form of co-ownership with survivorship incidents.

(c) A named beneficiary of a bond, life insurance policy, or other contractual arrangement who feloniously and intentionally or knowingly kills the principal obligee or the person upon whose life the policy is issued in violation of sections 701 and 702(1)(b) of the Penal Code is not entitled to any benefit under the bond, policy or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.

(d) Any other acquisition of property or interest by the killer shall be treated in accordance with the principles of this section.

(e) A final judgment of conviction of felonious and intentional or knowing killing is conclusive for purposes of this section. In the absence of a conviction of felonious and intentional or knowing killing the court may determine by a preponderance of evidence whether the killing was felonious and intentional or knowing for purposes of this section.

(f) This section does not affect the rights of any person who, before rights under this section have been adjudicated, purchases from the killer for value and without notice property which the killer would have acquired except for this section, but the killer is liable for the amount of the proceeds or the value of the property. Any insurance company, bank, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this section unless prior to payment it has received at its home office or principal address written notice of a claim under this section.

PART 9. CUSTODY AND DEPOSIT OF WILLS

Sec. 2-901 (Reserved)

Sec. 2-902 Duty of custodian of will; liability. After the death of a testator and on request of an interested person, any person having custody of a will of the testator shall deliver it with reasonable promptness to a person able to secure its probate and if none is known, to an appropriate court. Any person who wilfully fails to deliver a will is liable to any person aggrieved for the damages which may be sustained by the failure. Any person who wilfully refuses or fails to deliver a will after being ordered by the court in a proceeding brought for the purpose of compelling delivery is subject to penalty for contempt of court.

ARTICLE III

PROBATE OF WILLS AND ADMINISTRATION

PART 1. GENERAL PROVISIONS

Sec. 3-101 Devolution of estate at death; restrictions. The power of a person to leave property by will, and the rights of creditors, devisees, and heirs to his property are subject to the restrictions and limitations contained in this chapter to facilitate the prompt settlement of estates. Upon the death of a person, his real and personal property vests in the persons to whom it is devised by his last will or in those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition, in his heirs, or in those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to homestead allowance, exempt property and family allowance, to rights of creditors, elective share of the surviving spouse, and to administration.

Sec. 3-102 Necessity of order of probate for will. Except as provided in section 3-1201, to be effective to prove the transfer of any property or to nominate a personal representative, a will must be declared to be valid by an order of informal probate by the registrar, or an adjudication of probate by the court.

Sec. 3-103 Necessity of appointment for administration. Except as otherwise provided in Article IV, to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court or registrar, qualify, accept and be issued letters. Administration of an estate is commenced by the issuance of letters.

Sec. 3-104 Claims against decedent; necessity of administration. No proceeding to enforce a claim against the estate of a decedent or his successors may be revived or commenced before the appointment of a personal representative. After the appointment and until distribution, all proceedings and actions to enforce a claim against the estate are governed by the procedure prescribed by this Article. After distribution a creditor whose claim has not been barred may recover from the distributees as provided in section 3-1004 or from a former personal representative individually liable as provided in section 3-1005. This section has no application to a proceeding by a secured creditor of the decedent to enforce his right to his security except as to any deficiency judgment which might be sought therein.

Sec. 3-105 Jurisdiction of subject matter; persons bound. The court may hear and determine formal proceedings involving administration and distribution of decedents' estates after notice to interested persons in conformity with section 1-401. Persons notified are bound though less than all interested persons may have been given notice.

Sec. 3-106 (Reserved)

Sec. 3-107 Appointment of personal representative; scope of proceedings. Where a probate proceeding is commenced for a decedent's estate, a personal

representative shall be appointed and the proceeding shall be a continuous action, commenced as provided in sections 3-301, 3-401, or 3-502 and closed as provided in sections 3-1001 and 3-1003. Petitions for orders of the court may combine various requests for relief in a single proceeding if the orders sought may be finally granted without delay. Except as required for proceedings which are particularly described by other sections of this Article, no petition is defective because it fails to embrace all matters which might then be the subject of a final order.

Sec. 3-108 Probate proceedings; ultimate time limit. (a) No probate proceeding seeking to establish a will, other than an ancillary proceeding, may be commenced more than five years after the decedent's death except under the following conditions and circumstances:

- (1) If a previous probate proceeding was dismissed because of doubt about the fact of the decedent's death, a probate proceeding may be commenced at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous probate proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; or
 - (2) A probate proceeding may be commenced in relation to the estate of an absent, disappeared or missing person for whose estate a guardian of the property has been appointed, at any time within three years after the guardian of the property becomes able to establish the death of the protected person; or
 - (3) A formal testacy proceeding or a supervised administration may be commenced by an adult on or before his nineteenth birthday if (i) he is a devisee of or an heir to property of the decedent under the proceedings which he intends to commence, (ii) he was under the age of majority when he had a meaningful opportunity to contest any prior probate proceeding concerning the decedent, and (iii) his interest was not adequately represented by another party having a substantially identical interest in any prior probate proceeding concerning the decedent; or
 - (4) A formal testacy proceeding or a supervised administration may be commenced within twelve months after the petitioner learns of a prior probate proceeding in which an order of probate or an adjudication of intestacy was entered if the petitioner (i) is a devisee of or an heir to property of the decedent under the proceedings which he intends to commence, and (ii) did not receive notice pursuant to section 1-401 of the commencement of the prior probate proceeding, and if the petitioner's interest was not adequately represented by another party having a substantially identical interest in the prior probate proceeding.
- (b) A probate proceeding seeking an adjudication of intestacy may be commenced at any time unless there has been a prior probate proceeding concerning the decedent's estate, in which event a formal testacy proceeding or a supervised administration seeking an adjudication of intestacy may be commenced only under the conditions and circumstances set forth in subparagraphs (a) (3) and (4) above.

(c) A prior probate proceeding determining heirs by intestacy shall not be res judicata as to any subsequent proceedings unless the notice provisions of section 1-401 are complied with as to the person asserting heirship.

Sec. 3-109 Statutes of limitation on decedent's cause of action. No statute of limitation running on a cause of action belonging to a decedent which had not been barred as of the date of his death, shall apply to bar a cause of action surviving the decedent's death sooner than four months after death. A cause of action which, but for this section, would have been barred less than four months after death, is barred after four months unless tolled.

Se. 3-110 Informal proceedings; forms. The courts and registrars of the various judicial circuits shall prepare and make available to the public standard forms for the opening and closing of informal probate proceedings.

PART 2. VENUE FOR PROBATE PROCEEDINGS; PRIORITY TO ADMINISTER; DEMAND FOR NOTICE

Sec. 3-201 Venue for first and subsequent probate proceedings; location of property. (a) Venue for the first probate proceedings after a decedent's death is:

- (1) In the judicial circuit where the decedent had his domicile at the time of his death; or
- (2) In the judicial circuit where the decedent owned real property at the time of his death; or
- (3) If the decedent was not domiciled in this State, in any judicial circuit where property of the decedent was located at the time of his death.

(b) Venue for all subsequent proceedings within the jurisdiction of the court is in the place where the initial proceeding occurred, unless the initial proceeding has been transferred as provided in section 1-303 or (c) of this section.

(c) Upon application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.

(d) For the purpose of aiding determinations concerning location of assets which may be relevant in cases involving nondomiciliaries, a debt, other than one evidenced by investment or commercial paper or other instrument in favor of a nondomiciliary, is located where the debtor resides or, if the debtor is a person other than an individual, at the place where it has its principal office. Commercial paper, investment paper and other instruments are located where the instrument is. An interest in property held in trust is located where the trustee may be sued.

Sec. 3-202 Probate proceedings; conflicting claim of domicile in another state. If conflicting claims as to the domicile of a decedent are made in a probate proceeding commenced in this State, and in a probate proceeding after notice pending at the same time in another state, the court of this State may stay, dismiss, or permit suitable amendment in, the proceeding here if it determines that the best interests of the estate and interested persons so require. The determination of domicile in the other state's proceeding shall be accorded full faith and credit to the extent constitutionally required.

Sec. 3-203 Priority among persons seeking appointment as personal representative. (a) Whether the proceedings are formal or informal, persons who are qualified under section 3-601 have priority for appointment in the following order:

- (1) The person with priority as determined by a will including a person nominated by a power conferred in a will;
- (2) The surviving spouse of the decedent who is a devisee of the decedent;
- (3) Children of the decedent who are devisees;
- (4) Other devisees of the decedent;
- (5) The surviving spouse of the decedent;
- (6) Children of the decedent;
- (7) Other heirs of the decedent;
- (8) Forty-five days after the death of the decedent, any creditor.

(b) An objection to an appointment can be made only in formal proceedings. In case of objection the priorities stated in (a) apply except that:

- (1) If the estate appears to be more than adequate to meet exemptions and costs of administration but inadequate to discharge anticipated unsecured claims, the court, on petition of creditors, may appoint any qualified person;
- (2) In case of objection to appointment of a person other than one whose priority is determined by will by an heir or devisee appearing to have a substantial interest in the estate, the court may but is not required to appoint a person who is acceptable to heirs and devisees whose interests in the estate appear to be worth in total more than half of the probable distributable value, or, in default of this accord any suitable person.

(c) A person entitled to letters under (2) through (7) of (a) above may nominate a qualified person to act as personal representative. Any person may renounce his right to nominate or to an appointment by appropriate writing filed with the court. When two or more persons share a priority, those of them who do not renounce must concur in nominating another to act for them, or in applying for appointment.

(d) Guardians of the property of the estates of protected persons, or if there is no guardian of the property, any guardian except a guardian ad litem of a minor or incapacitated person, may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the protected person or ward would have if qualified for appointment.

(e) Appointment of one who does not have priority, including priority resulting from renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Before appointing one without priority, the court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment.

- (f) No person is qualified to serve as a personal representative who:
 - (1) Does not satisfy the requirements of section 3-601; or
 - (2) Is a person whom the court finds unsuitable in formal proceedings.
- (g) Subject to paragraph (f) above, a personal representative appointed by

a court of the decedent's domicile has priority over all other persons except where the decedent's will nominates different persons to be personal representative in this State and in the state of domicile. The domiciliary personal representative may nominate another, who shall have the same priority as the domiciliary personal representative.

(h) This section governs priority for appointment of a successor personal representative but does not apply to the selection of a special administrator.

Sec. 3-204 Demand for notice of order or filing concerning decedent's estate. Any interested person desiring notice of any order or filing pertaining to a decedent's estate may file a demand for notice with the court at any time after the death of a decedent stating the name of the decedent, the nature of his interest in the estate, and the demandant's address or that of his attorney. The clerk shall mail a copy of the demand to the personal representative if one has been appointed. After filing of a demand, no order or filing to which the demand relates shall be made or accepted without notice as prescribed in section 1-401 to the demandant or his attorney. The validity of an order which is issued or filed which is accepted without compliance with this requirement shall not be affected by the error, but the petitioner receiving the order or the person making the filing may be liable for any damage suffered by the demandant on account of the absence of notice. The requirement of notice arising from a demand under this provision may be waived in writing by the demandant and shall cease upon the termination of his interest in the estate.

PART 3. INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

Sec. 3-301 Testate informal probate and intestate informal appointment proceedings; limits on value of estate; contents of application; notice. (a) Informal probate and appointment proceedings shall be available only if the estate of the decedent subject to probate proceedings in this State has a gross value of \$30,000 or less.

(b) Applications for informal probate or informal appointment shall be directed to the registrar, and shall be verified by the applicant to be accurate and complete to the best of his knowledge and belief as follows:

- (1) Every application for informal probate of a will and appointment of a personal representative or for informal appointment of a personal representative in the case of intestacy, other than a special or successor representative, shall contain the following:
 - (i) A statement of the interest of the applicant;
 - (ii) The name, and date of death of the decedent, his age, and the county and state of his domicile at the time of death, and, so far as known or ascertainable with reasonable diligence by the applicant, the names and addresses of the spouse, children, heirs and devisees and the ages of any who are minors;
 - (iii) If the decedent was not domiciled in the State at the time of his death, a statement showing venue;
 - (iv) A statement identifying and indicating the address and state in

- which appointed of any personal representative of the decedent whose appointment has not been terminated;
- (v) A statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this State or elsewhere, and, as to any such demand the names and addresses of the demandants;
 - (vi) A statement indicating that the time limit for informal probate proceedings as provided in section 3-108 has not expired;
 - (vii) A statement of the nature and value of the estate of the decedent subject to probate proceedings in this State;
 - (viii) A statement setting forth any request for homestead allowance, exempt property (in which case the specific items of property and their value shall be itemized) and family allowance under Article II, Part 4;
 - (ix) The name, address, and priority of appointment of the person whose appointment as personal representative is sought, a statement that the nominee is qualified to serve as such under section 3-601, and the names of any other persons having a prior or equal right to appointment under section 3-203; and
 - (x) If there are any persons listed under subparagraph (ix) above who have a prior or equal right to appointment, a statement in which they renounce their priority or concur in the nomination of the person seeking appointment.
- (2) An application for informal probate of a will and appointment of a personal representative shall state the following in addition to the statements required by (1):
- (i) That the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;
 - (ii) That the applicant, to the best of his knowledge, believes the will to have been validly executed;
 - (iii) That after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will; and
 - (iv) That the applicant believes that the instrument which is the subject of the application is the decedent's last will and is not one of a series of testamentary instruments, the latest of which does not expressly revoke the earlier.
- (3) An application for informal appointment of a personal representative in the case of intestacy shall state in addition to the statements required by (1) that, after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this State under section 1-301, or, a statement why any such instrument of which he may be aware is not being probated.
- (4) An application for appointment of a personal representative to succeed a personal representative appointed in a prior probate proceeding shall

identify the prior proceeding, state the name and address of the person whose appointment will be terminated if the application is granted, and describe the priority of the nominee.

(5) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the nominee.

(c) Notice of the application shall be effected by delivering a copy of the application as provided in section 1-401 to the persons enumerated in subparagraph (b)(1)(v) above and in section 3-403. The application shall be accompanied by a statement to the effect that, if the recipient has an objection to the informal probate or to the granting of the requested statutory allowances or exempt property, he may file a petition for a formal testacy proceeding.

(d) Any published notice of the application shall contain the following information:

- (1) Name and date of the death of the decedent;
- (2) Name and address of nominee for personal representative;
- (3) Name and address of applicant;
- (4) Applicant's estimate of the value of the decedent's estate subject to probate proceedings in this State;
- (5) Total value of requests for homestead and family allowances and exempt property;
- (6) A statement to the effect that, if the noticed person has an objection to the informal probate or to the granting of the requested statutory allowances and exempt property, he may file a petition for a formal testacy proceeding; and
- (7) A statement to the effect that, if the noticed person desires any further notice concerning the estate, including notice concerning the closing and distribution of the estate, he must file a demand for notice under section 3-204.

(e) By verifying an application, the applicant submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the application, or for perjury, that may be instituted against him.

Sec. 3-302 Testate informal probate proceedings: duty of registrar; effect of informal probate and appointment. (a) Upon receipt of an application requesting informal probate of a will, the registrar, upon making the findings required by section 3-303, shall issue a written statement admitting the will to informal probate, granting any request for statutory allowances and exempt property, and appointing a personal representative subject to acceptance if at least forty days have passed after the first mailing or publication of notice, if proof that notice has been given is filed with the registrar and if no petition for formal testacy proceedings has been filed.

(b) Informal probate is conclusive as to all persons until superseded by an

order in a formal testacy proceeding or a supervised administration. The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created thereby, is subject to termination as provided in sections 3-608 through 3-612, but is not subject to retroactive vacation.

Sec. 3-303 Testate informal probate proceedings: proof and findings required. (a) In an informal proceeding for original probate of a will, the registrar shall determine whether:

- (1) The application is complete;
- (2) The application states that the value of the estate is \$30,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;
- (4) The applicant appears from the application to be an interested person as defined in section 1-201(24);
- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application, venue is proper;
- (8) An original, duly executed and apparently unrevoked will is in the registrar's possession;
- (9) Notice required by sections 3-204 and 3-301 has been given;
- (10) The application is not within section 3-304; and
- (11) It appears from the application that the time limit contained in section 3-108 has not expired.

(b) The application shall be denied if it indicates that a personal representative has been appointed in this or another judicial circuit of this State or, except as provided in subsection (d) below, if it appears that his or another will of the decedent has been the subject of a previous probate order.

(c) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under section 2-502 or 2-506 have been met shall be probated without further proof. In other cases, the registrar may accept a sworn statement or affidavit of any person having personal knowledge of the circumstances of execution.

(d) Informal probate of a will which has been previously probated elsewhere may be granted at any time upon written application by an interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office of court where it was first probated.

(e) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection (a) above, may be probated in this State upon receipt by the registrar of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

(f) The registrar may grant the application but deny any portion or all of a request for statutory allowances or exempt property. In the event of any such denial, the spouse or the children of the decedent may petition for an award of the

same under Part 4 following.

Sec. 3-304 Testate informal probate proceedings; unavailable in certain cases. Applications for informal probate which relate to one or more of a known series of testamentary instruments (other than a will and its codicils), the latest of which does not expressly revoke the earlier, shall be declined. A declination of informal probate does not preclude formal testacy proceedings or supervised administration.

Sec. 3-305 Testate informal probate proceedings; registrar not satisfied. If the registrar is not satisfied that a will is entitled to be probated or a personal representative appointed in informal proceedings because of failure to meet the requirements of section 3-303 or 3-304, or for any other reason, he may decline the application.

Sec. 3-306 (Reserved)

Sec. 3-307 Intestate informal appointment proceedings; delay in order; duty of registrar; effect of appointment. (a) Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 3-614, the registrar, after making the findings required by section 3-308, shall appoint the nominee subject to acceptance; provided, that if the decedent was a nonresident, the registrar shall delay the order of appointment until thirty days have elapsed since death unless the personal representative appointed at the decedent's domicile is the applicant, or unless the decedent's will directs that his estate be subject to the laws of this State.

(b) The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created thereby, is subject to termination as provided in sections 3-608 through 3-612, but is not subject to retroactive vacation.

Sec. 3-308 Intestate informal appointment proceedings; proof and findings required. (a) In an intestate informal appointment proceeding, the registrar shall determine whether:

- (1) The application is complete;
- (2) The value of the estate is \$30,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;
- (4) The applicant appears from the application to be an interested person as defined in section 1-201(24);
- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application, venue is proper;
- (8) Notice required by sections 3-204 and 3-301 has been given; and
- (9) It appears from the application that the time limit contained in section 3-108 has not expired.

(b) Unless section 3-612 controls, the application shall be denied if it indicates that a personal representative who has not filed a written statement of

resignation as provided in section 3-610(c) has been appointed in this or another judicial circuit of this State, that (unless the applicant is the domiciliary personal representative or his nominee) the decedent was not domiciled in this State and that a personal representative whose appointment has not been terminated has been appointed by a court in the State of domicile, or that other requirements of this section have not been met.

Sec. 3-309 Intestate informal appointment proceedings; registrar not satisfied. If the registrar is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the requirements of section 3-307, 3-308, or 3-311, or for any other reason, he may decline the application. A declination of informal appointment does not preclude formal testacy proceedings or supervised administration.

Sec. 3-310 (Reserved)

Sec. 3-311 Intestate informal appointment proceedings; unavailable in certain cases. Applications for informal appointment which indicate the existence of a possible unrevoked testamentary instrument which may relate to property subject to the laws of this State, and which is not filed for probate in this court, shall be declined.

**PART 4. FORMAL TESTACY AND
APPOINTMENT PROCEEDINGS**

Sec. 3-401 Formal testacy proceedings; nature; how commenced. A formal testacy proceeding is litigation to (i) determine whether a decedent left a valid will, or (ii) resolve whether or not an estate may be probated or a personal representative appointed informally, or (iii) resolve any other disputes arising in informal proceedings. A formal testacy proceeding may be commenced by an interested person filing a petition as described in section 3-402(a) in which he requests that the court, after notice and hearing, enter an order (i) probating a will; (ii) granting a petition to set aside an informal probate of a will or to prevent informal probate of a will which is the subject of a pending application; (iii) granting a petition in accordance with section 3-402(b) for an order that the decedent died intestate; (iv) appointing as a personal representative one who does not have priority; (v) granting a petition to require that informal probate proceedings be made supervised on account of the value of the estate; or (vi) granting a petition concerning any other disputes arising in informal proceedings.

A petition for formal testacy proceedings may be filed without regard to whether the same or a conflicting will has been informally probated. If a personal representative has been previously appointed, a formal testacy proceeding may, but need not, involve a request for appointment of a successor personal representative. If a personal representative has not been previously appointed, a formal testacy proceeding shall request the appointment of a personal representative.

During the pendency of a formal testacy proceeding, the registrar shall not act upon any application for informal probate of any will of the decedent or any application for informal appointment of a personal representative of the dece-

dent.

Unless a petition in a formal testacy proceeding also requests confirmation of the previous formal appointment, a previously appointed personal representative, after receipt of notice of the commencement of a formal probate proceeding, must refrain from exercising his power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different personal representative in a formal proceeding also may request an order restraining the acting personal representative from exercising any of the powers of his office and requesting the appointment of a special administrator. In the absence of a request, or if the request is denied, the commencement of a formal proceeding has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.

Sec. 3-402 Formal testacy proceedings; petition; contents. (a) Petitions for formal probate of a will, or for an adjudication of intestacy, with request for appointment of a personal representative, must be directed to the court, request a judicial order after notice and hearing and contain further statements as indicated in this section.

(b) A petition for formal probate of a will and appointment of a personal representative shall:

- (1) Request an order as to the testacy of the decedent in relation to a particular instrument which may or may not have been informally probated and determining the heirs;
- (2) Contain the statements required for informal applications as stated in the first nine subparagraphs under section 3-301(b) (1) and subparagraphs (ii) and (iii) of section 3-301(b) (2);
- (3) State the contents of the will and indicate why it is unavailable if the original will is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition; and
- (4) Indicate whether supervised administration is sought.

(c) A petition for an adjudication of intestacy and appointment of a personal representative shall:

- (1) Request a judicial finding and order that the decedent left no will and determining the heirs;
- (2) Contain the statements required for informal applications as stated in the first nine subparagraphs under section 3-301(b) (1) and under section 3-301(b) (3); and
- (3) Indicate whether supervised administration is sought.

(d) A petition for an order appointing as a personal representative one who does not have priority shall:

- (1) Request a finding that the persons having priority were given notice and failed to request appointment or nominate another for appointment;
- (2) Request an order appointing as personal representative one who does not have priority; and
- (3) Contain the statements required under paragraphs (b) (2) or (c) (2), as appropriate, above.

(e) A petition for an order determining whether informal proceedings may be maintained shall:

- (1) Request an order that probate proceedings concerning the estate be maintained as provided in part 5 hereof;
- (2) Contain the statements required for informal applications under section 3-301; and
- (3) Identify with particularity any reasons why informal proceedings may not be maintained.

Sec. 3-403 Formal testacy proceedings; notice of hearing on petition. (a)

Upon commencement of a formal testacy proceeding, the court shall fix a time and place of hearing. Notice shall be given in the manner prescribed by section 1-401 by the petitioner to the persons herein enumerated and to any additional person who has filed a demand for notice under section 3-204 of this chapter.

Notice shall be given to the following persons, so far as the same are known or are ascertainable with reasonable diligence: the surviving spouse, children, and other heirs of the decedent, the devisees and personal representatives named in any will that is being, or has been probated, or offered for informal or formal probate in the judicial circuit, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated.

(b) If it appears by the petition or otherwise that the fact of the death of the alleged decedent may be in doubt, or on the written demand of any interested person, a copy of the notice of the hearing on the petition shall be sent by registered or certified mail, return receipt requested, deliverable to the addressee only, to the alleged decedent at his last known address. The court shall direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the alleged decedent in any manner that may seem advisable, including any or all of the following methods:

- (1) By inserting in one or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the alleged decedent;
- (2) By notifying law enforcement officials and public welfare agencies in appropriate locations of the disappearance of the alleged decedent;
- (3) By engaging the services of an investigator. The costs of any search so directed shall be paid by the petitioner if there is no administration or by the estate of the decedent in case there is administration.

Sec. 3-404 Formal testacy proceedings; written objections to probate. Any party to a formal testacy proceeding who opposes the probate of a will for any reason shall state in his pleadings objections to probate of the will.

Sec. 3-405 Formal testacy proceedings; uncontested cases; hearings and proof. If a petition in a formal testacy proceeding is unopposed, the court may order probate or intestacy on the strength of the pleadings if satisfied that the conditions of section 3-409 have been met, or conduct a hearing in open court and

require proof of the matters necessary to support the order sought. If evidence concerning execution of the will is necessary, the affidavit or testimony of one of any attesting witnesses to the instrument is sufficient. If the affidavit or testimony of an attesting witness is not available, execution of the will may be proved by other evidence or affidavit.

Sec. 3-406 Formal testacy proceedings; contested cases; testimony of attesting witnesses. (a) If evidence concerning execution of an attested will which is not self-proved is necessary in contested cases, the testimony of at least one of the attesting witnesses, if within the State competent and able to testify, is required. Due execution of an attested will may be proved by other evidence.

(b) If the will is self-proved, compliance with signature requirements for execution is presumed and other requirements of execution are presumed subject to rebuttal without the testimony of any witness upon filing the will and the acknowledgment and affidavits annexed or attached thereto, unless there is proof of fraud or forgery affecting the acknowledgment or affidavit.

Sec. 3-407 Formal testacy proceedings; burdens in contested cases; consolidation of proceedings. (a) In contested cases, petitioners who seek to establish intestacy have the burden of establishing prima facie proof of death, venue, heirship. Proponents of a will have the burden of establishing prima facie proof of due execution in all cases, and, if they are also petitioners, prima facie proof of death and venue. Contestants of a will have the burden of establishing lack of testamentary intent or capacity, undue influence, fraud, duress, mistake or revocation. Parties have the ultimate burden of persuasion as to matters with respect to which they have the initial burden of proof.

(b) If a will is opposed by the petition for probate of a later will revoking the former, it shall be determined first whether the later will is entitled to probate, and if a will is opposed by a petition for a declaration of intestacy, it shall be determined first whether the will is entitled to probate. The court has discretion to consolidate all proceedings regarding a decedent's estate.

Sec. 3-408 Formal testacy proceedings; will construction; effect of final order in another jurisdiction. A final order of a court of another state determining testacy or the validity or construction of a will, made in a proceeding involving notice pursuant to section 1-401 to the persons enumerated in section 3-403, must be accepted as determinative by the courts of this State to the extent required by *res judicata*, collateral estoppel, comity and full faith and credit.

Sec. 3-409 Formal testacy proceedings; order; foreign will. After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, if the court finds that the testator is dead, venue is proper and that the proceeding was commenced within the limitation prescribed by section 3-108, it shall determine, as applicable, the decedent's domicile at death, his heirs, his state of testacy, who shall serve as personal representative and whether or not informal proceedings may be maintained. Any will found to be valid and unrevoked shall be formally probated. Termination of any previous informal appointment of a personal representative, which may be appropriate in view of the relief requested and findings, is governed by section 3-612. The petition shall be dismissed or appropriate amendment allowed if the court is not

satisfied that the alleged decedent is dead. A will from a place which does not provide for probate of a will after death, may be proved for probate in this State by a duly authenticated certificate of its legal custodian that the copy introduced is a true copy and that the will has become effective under the law of the other place.

Sec. 3-410 Formal testacy proceedings; probate of more than one will. If two or more wills are offered for probate before a final order is entered in a formal testacy proceeding, more than one will may be probated if neither expressly revokes the other or contains provisions which work a total revocation by implication. If more than one will is probated, the order shall indicate what provisions control in respect to the nomination of an executor, if any. The order may, but need not, indicate how any provisions of a particular will are affected by the other will. After a final order in a formal testacy proceeding has been entered, no petition for probate of any other will of the decedent may be entertained, except incident to a petition to vacate or modify a previous probate order and subject to the conditions and time limits of sections 3-108 and 3-412.

Sec. 3-411 Formal testacy proceedings; partial intestacy. If it becomes evident in the course of a formal testacy proceeding that, though one or more wills are entitled to be probated, the decedent's estate is partially intestate, the court shall enter an order to that effect.

Sec. 3-412 Formal testacy proceedings; effect of order; vacation. Subject to appeal and subject to vacation as provided herein and in section 3-413, a formal testacy order under sections 3-409 to 3-411, including an order that the decedent left no valid will and determining heirs, is final as to all persons with respect to all issues concerning the decedent's estate that the court consisted or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will, and to the determination of heirs, except that:

- (1) The court shall entertain a petition for modification or vacation of its order and probate of another will of the decedent under the conditions and within the time specified in section 3-108(a).
- (2) If intestacy of all or part of the estate has been ordered, the testacy status and determination of heirs of the decedent may be reconsidered under the conditions and within the time specified in section 3-108(b).
- (3) The order originally rendered in the formal testacy proceeding may be modified or vacated, if appropriate under the circumstances, by the order of probate of the later-offered will or the order concerning the testacy status of the decedent or the order redetermining heirs.
- (4) The finding of the fact of death is conclusive as to the alleged decedent only if notice of the hearing on the petition in the formal testacy proceeding was sent by registered or certified mail, return receipt requested, deliverable to the addressee only, addressed to the alleged decedent at his last known address and the court finds that a search under section 3-403(b) was made.

If the alleged decedent is not dead, even if notice was sent and search was made, he may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud

or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

Sec. 3-413 Formal testacy proceedings; vacation of order for other cause. For good cause shown, an order in a formal testacy proceeding may be modified or vacated within the time allowed for appeal.

Sec. 3-414 Formal proceedings concerning appointment of personal representative. (a) A formal proceeding for adjudication regarding the priority or qualification of one who is an applicant for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, if an issue concerning the testacy of the decedent is or may be involved, is governed by section 3-402, as well as by this section. In other cases, the petition shall contain or adopt the statements required by section 3-301(1) and describe the question relating to priority or qualification of the personal representative which is to be resolved. If the proceeding precedes any appointment of a personal representative, it shall stay any pending informal appointment proceedings as well as any commenced thereafter. If the proceeding is commenced after appointment, the previously appointed personal representative, after receipt of notice thereof, shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

(b) After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, any previously appointed personal representative and any person having or claiming priority for appointment as personal representative, the court shall determine who is entitled to appointment under section 3-203, make a proper appointment and, if appropriate, terminate any prior appointment found to have been improper as provided in cases of removal under section 3-611.

PART 5. SUPERVISED ADMINISTRATION

Sec. 3-501 Supervised administration; nature of proceeding. Supervised administration is a single proceeding to secure complete administration and settlement of a decedent's estate under the continuing authority of the court which extends until entry of an order approving distribution of the estate and discharging the personal representative or other order terminating the proceeding. A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party. Except as otherwise provided in this Part, or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.

Sec. 3-502 Supervised administration; when required; petition; order. A petition for supervised administration shall be filed for any estate subject to probate proceedings in this State if the gross value thereof is over \$30,000; provided however, if probate proceedings were commenced informally and the

file is transferred pursuant to section 3-706(b), no new petition need be filed. A petition for supervised administration may be filed by any interested person or by a personal representative at any time or the prayer for supervised administration may be joined with a petition in a formal testacy or appointment proceeding, but, if the estate qualifies for informal proceedings, the court may deny a petition for supervised administration filed by some one other than the personal representative for good cause. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised administration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration even though the request for supervised administration may be denied. After notice to interested persons pursuant to section 1-401, the court shall order supervised administration of a decedent's estate:

- (1) If the gross value of the estate subject to probate proceedings in this State is over \$30,000;
- (2) If the decedent's will directs supervised administration, unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration;
- (3) If the decedent's will directs unsupervised administration, only upon a finding that it is necessary for protection of persons interested in the estate; or
- (4) In other cases if the court finds that supervised administration is necessary under the circumstances.

Sec. 3-503 Supervised administration; effect on other proceedings. (a) The pendency of a proceeding for supervised administration of a decedent's estate stays action on any informal application then pending or thereafter filed.

(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 3-401.

(c) After he has received notice of the filing of a petition for supervised administration, a personal representative who has been appointed previously shall not exercise his power to distribute any estate. The filing of the petition does not affect his other powers and duties unless the court restricts the exercise of any of them pending full hearing on the petition.

Sec. 3-504 Supervised administration; powers of personal representative. Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this chapter, but he shall not exercise his power to make a final distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative which may be ordered by the court must be endorsed on his letters of appointment and, unless so endorsed, is ineffective as to persons dealing in good faith with the personal representative.

Sec. 3-505 Supervised administration; interim orders; distribution and closing orders. Unless otherwise ordered by the court, supervised administration is terminated by order in accordance with time restrictions, notices and contents of orders prescribed for proceedings under section 3-1001. Interim orders approving or directing partial distributions or granting other relief may be issued by the court at any time during the pendency of a supervised administration on the application of the personal representative or any interested person.

PART 6. PERSONAL REPRESENTATIVE: APPOINTMENT, CONTROL AND TERMINATION OF AUTHORITY

Sec. 3-601 Qualification. (a) To be entitled to serve as a personal representative in this State:

(1) A natural person must be eighteen years of age or above and be a resident of this State; and

(2) A corporation must be actually engaged in doing business in this State.

(b) If a proposed personal representative under (a) (2) above is not either a trust company qualified under chapter 406 or a bank with authority to engage in trust business under section 403-33, the registrar or the court shall determine whether or not the proposed personal representative of the estate has the experience and capacity to effectively serve as a personal representative, and whether or not the character, financial responsibility, and general fitness of the officers and the directors of the proposed personal representative are such as to command the confidence of the community and warrant the belief that the office of personal representative will be honestly and efficiently managed. If the registrar of the court determines that the proposed personal representative is so experienced and capable and its personnel does possess such qualities, the registrar of the court shall appoint the corporation as personal representative conditioned upon the posting of a bond under Part 6 in such amount as seems prudent under the circumstances of the estate.

(c) Prior to receiving letters, a personal representative shall qualify by filing with the registrar or the court any required bond and a statement of acceptance of the duties of the office; provided, however, that acceptance shall be presumed and no such statement shall be necessary if the personal representative was the applicant or petitioner who initiated the proceeding seeking appointment of himself as personal representative.

Sec. 3-602 Acceptance of appointment; consent to jurisdiction. By accepting appointment, a personal representative submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be delivered to the personal representative and his attorney, or mailed to them by ordinary first class mail at the addresses as listed in the application or petition for appointment or as thereafter reported to the court and to the addresses as then known to the petitioner.

Sec. 3-603 Bond; when required. (a) No bond is required of a personal representative appointed in informal proceeding, except (1) upon the appointment of a special administrator; (2) when an executor or other personal represen-

tative is appointed to administer an estate under a will containing an express requirement of bond; (3) when bond is required under section 3-601(b) or 3-605; or (4) when the registrar determines that the best interests of the estate and interested persons require one.

(b) No bond is required of a personal representative appointed in formal proceedings except as required in section 3-601(b), unless the court, on its own motion or at the request of an interested person, determines that the best interests of the estate and interested person, require one.

Sec. 3-604 Bond amount; security; procedure; reduction. If bond is required and the provisions of the will or order do not specify the amount, the person qualifying shall file a statement under oath with the registrar or the court indicating his best estimate of the income expected from the personal and real estate during the next year, and he shall execute and file a bond with the registrar or the court, or give other suitable security, in an amount not less than the sum of such estimate and the estimate of the value of the decedent's estate contained in his application or petition. The registrar or the court shall determine that the bond is duly executed by a corporate surety, or one or more individual sureties whose performance is secured by pledge of personal property, mortgage on real property or other adequate security. The registrar or the court may permit the amount of the bond to be reduced by the value of assets of the estate deposited with a domestic financial institution (as defined in section 6-101) in a manner that prevents their unauthorized disposition. Upon the application or petition of the personal representative or another interested person, the registrar or the court may excuse a requirement of bond (other than as required by section 3-601(b)), increase or reduce the amount of the bond, release sureties, or permit the substitution of another bond with the same or different sureties.

Sec. 3-605 Demand for bond by interested person. Any person apparently having an interest in the estate worth in excess of \$1,000, or any creditor having a claim in excess of \$1,000, may make a written demand that a personal representative give bond. The demand shall state the reasons therefor, shall be filed with the registrar or the court, as appropriate, and a copy mailed to the personal representative, if appointment and acceptance have occurred. If the registrar or the court determines that a bond should be required, an order to that effect shall be entered. After he has received notice of such order and until the filing of the bond or cessation of the requirement of bond, the personal representative shall refrain from exercising any powers of his office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of bond by giving suitable bond within thirty days after receipt of notice is cause for his removal and appointment of a successor personal representative.

Sec. 3-606 Terms and conditions of bonds. (a) The following requirements and provisions apply to any bond required by this Part:

- (1) Bonds shall name the judge presiding over the probate calendar in the judicial circuit or his successors as obligee for the benefit of the persons interested in the estate.
- (2) No bond hereunder shall be conditioned so as to relieve the surety from liability either on account of any breach by the personal representative

of his duties to the court, the registrar, the estate or interested persons, or on account of a failure by the personal representative to perform the acts or duties required of him by this chapter, and any provision of a bond which seeks to so limit the surety's liability shall be void and of no effect.

- (3) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other.
- (4) The address of sureties shall be stated in the bond.
- (5) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the court in the judicial circuit in which the probate proceedings are or were maintained in any proceedings pertaining to the acts or duties of the personal representative and naming the surety as a party. Notice of any such proceeding shall be served on the surety in the manner provided by chapter 634.
- (6) On petition of a successor personal representative, any other personal representative of the same decedent, or any interested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the bond of the personal representative.
- (7) The bond of the personal representative is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(b) No action or proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

Sec. 3-607 Order restraining personal representative. (a) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement, or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the petitioner or of some other interested person. Persons with whom the personal representative may transact business may be made parties.

(b) The matter shall be set for hearing as provided by the rules of court but in all events within ten days unless the parties otherwise agree. Notice as the court directs shall be given to the personal representative and his attorney of record, if any, and to any other parties named defendant in the petition.

Sec. 3-608 Termination of appointment; general. Termination of appointment of a personal representative occurs as indicated in sections 3-609 to 3-612, inclusive. Termination ends the right and power pertaining to the office of personal representative as conferred by this chapter or any will, except that a personal representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative. Termination does not discharge a personal representative from liability for transactions or omissions occurring before termination, or relieve him of the duty to preserve assets subject to his

control, to account therefor and to deliver the assets. Termination does not affect the jurisdiction of the court over the personal representative, but terminates his authority to represent the estate in any pending or future proceeding.

Sec. 3-609 Termination of appointment; death or disability. The death of a personal representative or the appointment of a guardian of the property for the estate of a personal representative, terminates his appointment. Until appointment and qualification of a successor or special representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, has the duty to protect the estate possessed and being administered by his decedent or ward at the time his appointment terminates, has the power to perform acts necessary for protection and shall account for and deliver the estate assets to a successor or special personal representative upon his appointment and qualification.

Sec. 3-610 Termination of appointment; voluntary. Except to the extent required on account of any proceeding then pending against the personal representative of the estate:

(a) An order closing an estate as provided in section 3-1001 or 3-1003 terminates an appointment of a personal representative.

(b) A personal representative may resign his position by filing a written statement of resignation with the registrar or the court after he has given at least fifteen days written notice to the persons known to be interested in the estate. If no one applies or petitions for appointment of a successor representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and in any event is effective only upon the appointment and qualification of a successor representative and delivery of the assets to him.

Sec. 3-611 Termination of appointment by removal; cause; procedure. (a) A person interested in the estate may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner to the personal representative, and to other persons as the court may order. Except as otherwise ordered as provided in section 3-607, after receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration or preserve the estate. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(b) Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment of himself or his nominee as ancillary personal representative, may obtain removal of

another who was appointed personal representative in this State to administer local assets.

Sec. 3-612 Termination of appointment; change of testacy status. Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will which is superseded by formal probate of another will, or the vacation of an informal probate of a will subsequent to the appointment of the personal representative thereunder, does not terminate the appointment of the personal representative although his powers may be reduced as provided in section 3-401. Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made in any such proceedings, changing the assumption concerning testacy, the previously appointed personal representative upon request shall be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.

Sec. 3-613 Successor personal representative. Parts 3 and 4 of this Article govern proceedings for appointment of a personal representative to succeed one whose appointment has been terminated. After appointment and acceptance, a successor personal representative may be substituted in all actions and proceedings to which the former personal representative was a party, and no notice, process or claim which was given or served upon the former personal representative need be given to or served upon the successor in order to preserve any position or right the person giving the notice or filing the claim may thereby have obtained or preserved with reference to the former personal representative. Except as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration which the former personal representative would have had if his appointment had not been terminated.

Sec. 3-614 Special administrator; appointment. A special administrator may be appointed:

- (1) Informally by the registrar on the application of any interested person when necessary to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in section 3-609;
- (2) In a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice.

Sec. 3-615 Special administrator; who may be appointed. (a) If a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available, and qualified.

(b) In other cases, any proper person may be appointed special administrator.

Sec. 3-616 Special administrator; appointed informally; powers and duties.

A special administrator appointed by the registrar in informal proceedings pursuant to section 3-614(1) has the duty to collect and manage the assets of the estate, to preserve them, to account therefor and to deliver them to the general personal representative upon his acceptance. The special administrator has the power of a personal representative under this chapter necessary to perform his duties.

Sec. 3-617 Special administrator; formal proceedings; power and duties. A special administrator appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited in the appointment and duties as prescribed in the order. The appointment may be for a specified time, to perform particular acts or on other terms as the court may direct.

Sec. 3-618 Termination of appointment; special administrator. The appointment of a special administrator terminates in accordance with the provisions of the order of appointment or on the appointment of a general personal representative. In other cases, the appointment of a special administrator is subject to termination as provided in sections 3-608 through 3-611.

**PART 7. DUTIES AND POWERS OF
PERSONAL REPRESENTATIVES**

Sec. 3-701 Time of accrual of duties and powers. The duties and powers of a personal representative commence upon his appointment. The powers of a personal representative relate back in time to give acts by the persons appointed which are beneficial to the estate occurring prior to appointment to the same effect as those occurring thereafter. Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to his body, funeral and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

Sec. 3-702 Priority among different letters. A person to whom general letters are issued first has exclusive authority under the letters until his appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

Sec. 3-703 General duties; relation and liability to persons interested in estate; standing to sue. (a) A personal representative is a fiduciary who shall observe the standards of care applicable to trustees as described by section 7-302. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this chapter, and as expeditiously and efficiently as is consistent with the best interests

of the estate. He shall use the authority conferred upon him by this chapter, the terms of the will, if any, and any order in proceedings to which he is party for the best interests of successors to the estate.

(b) A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, including closing as described in Part 10, an informally probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning his appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children and any pretermitted child of the decedent as described elsewhere in this chapter.

(c) Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent has immediately prior to death.

Sec. 3-704 Personal representative to proceed without court order; exceptions. A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise provided in section 3-504, in Part 10 hereof, or in section 531-29, or as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order or direction of the court, but he may invoke the jurisdiction of the court, in proceedings authorized by this chapter, to resolve questions concerning the estate or its administration.

Sec. 3-705 (Reserved)

Sec. 3-706 Duty of personal representative; inventory; transfer from informal to supervised administration. (a) Within thirty days after his appointment, in a supervised administration, or on or before filing the statement specified in section 3-1003 in an informal proceeding, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file with the registrar or the court, as appropriate, an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, if known with reasonable accuracy, and the type and amount of any encumbrance that may exist with reference to any item. The personal representative shall send a copy of the inventory to interested persons who request it.

(b) If the probate proceedings were commenced informally but the inventory and/or any appraisal reveal, or the personal representative otherwise learns, that the gross value of the estate is in excess of \$30,000, the personal represen-

tative shall forthwith:

- (1) Commence a supervised proceeding by instructing the registrar to transfer the file to the court; and
- (2) Notify all interested persons pursuant to section 1-401 of such transfer; provided, however, no newspaper publication of the transfer shall be required.

Sec. 3-707 Use of appraisers. The registrar or the court may appoint a qualified and disinterested appraiser for the purpose of ascertaining the fair market value as of the date of the decedent's death of any asset the value of which appears to the registrar or the court to be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser shall be indicated on the appraisal with the item or items he appraised. The cost of the appraisal shall be borne by the estate.

Sec. 3-708 Duty of personal representative; supplementary inventory. If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, he shall file a supplementary inventory showing the market value as of the date of the decedent's death if known with reasonable certainty of the new item or the revised market value or descriptions, and shall send a copy of the supplementary inventory to interested persons who received the original inventory.

Sec. 3-709 Duty of personal representative; possession of estate. Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to determine the title thereto.

Sec. 3-710 Power to avoid transfers. The property liable for the payment of unsecured debts of a decedent includes all property transferred by him by any means which is in law void or voidable as against his creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

Sec. 3-711 Powers of personal representatives; in general. Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust

however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court, except as provided in section 531-20.

Sec. 3-712 Improper exercise of power; breach of fiduciary duty. If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of his fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in sections 3-713 and 3-714.

Sec. 3-713 Sale, encumbrance or transaction involving conflict of interest. Any sale or encumbrance to the personal representative, his spouse, agent or attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, must be approved by the registrar or the court, as appropriate, after notice pursuant to section 1-401 (except that no newspaper publication is required) to interested persons, and any such transaction which is not so approved is voidable by any person interested in the estate.

Sec. 3-714 Persons dealing with personal representative; protection. A person who in good faith either assists a personal representative or deals with him for value is protected as if the personal representative properly exercised his power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in section 3-504, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

Sec. 3-715 Transactions authorized for personal representatives; exceptions. Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to section 531-29, and the priorities stated in section 3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

- (1) Retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;
- (2) Receive assets from fiduciaries, or other sources;
- (3) Perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as he may determine under the circumstances. In performing enforceable contracts by the

decedent to convey or lease land, the personal representative, among other possible courses of action, may:

- (i) Execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or
- (ii) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;
- (4) Satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;
- (5) If funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;
- (6) Acquire or, subject to section 531-29, dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;
- (7) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;
- (8) Subdivide, develop or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;
- (9) Enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;
- (10) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
- (11) Abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;
- (12) Vote stocks or other securities in person or by general or limited proxy;
- (13) Pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;
- (14) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;
- (15) Insure the assets of the estate against damage, loss and liability and

- himself against liability as to third persons;
- (16) Borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;
 - (17) Effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge or other lien upon property of another person, he may, in lieu of foreclosure, accept a conveyance or transfer or encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;
 - (18) Pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;
 - (19) Sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprises;
 - (20) Allocate items of income or expense to either estate income or principal, as permitted or provided by law;
 - (21) Employ persons, including attorneys, auditors, appraisers, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of his administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;
 - (22) Prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of his duties;
 - (23) Subject to section 531-29, sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for unpaid balances;
 - (24) Continue any unincorporated business or venture in which the decedent was engaged at the time of his death (i) in the same business form for a period of not more than four months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will; (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;
 - (25) Incorporate any business or venture in which the decedent was engaged at the time of his death;
 - (26) Provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;
 - (27) Satisfy and settle claims and distribute the estate as provided in this chapter.

Sec. 3-716 Powers and duties of successor personal representative. A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but he shall not exercise any power expressly made personal to the executor named in the will.

Sec. 3-717 Corerepresentatives; when joint action required. If two or more persons are appointed corepresentatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any corepresentative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a corepresentative has been delegated to act for the others. Persons dealing with a corepresentative if actually unaware that another has been appointed to serve with him or if advised by the personal representative with whom they deal that he has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

Sec. 3-718 Powers of surviving personal representative. Unless the terms of the will otherwise provide, every power exercisable by personal corepresentatives may be exercised by the one or more remaining after the appointment of one or more is terminated, and if one of two or more nominated as coexecutors is not appointed, those appointed may exercise all the powers incident to the office.

Sec. 3-719 Compensation of personal representative. A personal representative is entitled to reasonable compensation for his services, which compensation shall be set forth in his final accounts and shall be approved by the registrar or the court as provided in sections 3-1001 or 3-1003. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, he may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce his right to all or any part of the compensation. A written renunciation of the fee may be filed with the court.

Sec. 3-720 Expenses in estate litigation. If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not he is entitled to receive from the estate his necessary expenses and disbursements including reasonable attorneys' fees incurred.

Sec. 3-721 Compensation of employees of estate. The propriety of employment of any person by a personal representative including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for his own services, shall be reviewed by the court or the registrar at the time of its approval of the final account. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

PART 8. CREDITORS' CLAIMS

Sec. 3-801 Notice to creditors; transfer of claims. (a) Unless notice has already been given under this section, a person applying or petitioning for appointment of a personal representative shall publish a notice once a week for three successive weeks in a newspaper of general circulation in the judicial circuit in which the application or petition is filed announcing his application or petition, the name of the person nominated as personal representative, and notifying creditors of the estate to present their claims to the nominee within four months after the date of the first publication of the notice or be forever barred. The notice shall be combined with any published notice of the pendency of the probate proceedings.

(b) If the application or petition is denied, the nominee shall promptly deliver all claims to the person who is appointed. Failure to deliver shall render the nominee liable for any damages suffered by the claimants.

Sec. 3-802 Statutes of limitations. Unless an estate is insolvent, the personal representative, with the consent of all successors whose interests would be affected, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death and advertisement for claims against a decedent is suspended during the four months following the decedent's death but resumes thereafter as to claims not barred pursuant to sections which follow. For purposes of any statute of limitations, the proper presentation of a claim under section 3-804 is equivalent to commencement of a proceeding on the claim.

Sec. 3-803 Limitations on presentation of claims. (a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

- (1) Within four months after the date of the first publication of notice to creditors if notice is given in compliance with section 3-801; provided, claims barred by the nonclaim statute at the decedent's domicile before the first publication for claims in this State are also barred in this State.
- (2) Within three years after the decedent's death, if notice to creditors has not been published.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

- (1) A claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

- (2) Any other claim, within four months after it arises.
- (c) Nothing in this section affects or prevents:
 - (1) Any proceeding to enforce any mortgage, pledge, lien, or other secured interest upon property of the estate; or
 - (2) To the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance, but any such proceeding must be commenced within two years of the occurrence of the event insured against.

Sec. 3-804 Manner of presentation of claims. Claims against a decedent's estate may be presented as follows:

- (1) The claimant may deliver or mail to the personal representative a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed, or may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court. The claim is deemed presented on the first to occur of receipt of the written statement of claim by the personal representative, or the filing of the claim with the court. If a claim is not yet due, the date when it will become due shall be stated. If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated. If the claim is secured, the security shall be described. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.
- (2) The claimant may commence a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of his claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of his death.
- (3) If a claim is presented under subsection (1), no proceeding thereon may be commenced more than ninety days after the personal representative has mailed by certified or registered mail, deliverable to the addressee only, return receipt requested, a notice of disallowance; but, in the case of a claim which is not presently due or which is contingent or unliquidated, the personal representative may consent to an extension of the ninety-day period, or to avoid injustice the court, on petition, may order an extension of the ninety-day period, but in no event shall the extension run beyond the applicable statute of limitations.

Sec. 3-805 Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) Costs and expenses of administration;
- (2) Reasonable funeral expenses;
- (3) Homestead allowance under section 2-401;
- (4) Exempt property under section 2-402;

- (5) Family allowance under sections 2-403 and 2-404;
- (6) Debts and taxes with preference under federal law;
- (7) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;
- (8) Debts and taxes with preference under other laws of this State;
- (9) All other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Sec. 3-806 Allowance and disallowance of claims. (a) As to claims presented in the manner described in section 3-804 within the time limit prescribed in section 3-803, the personal representative may but is not required to mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes his decision concerning the claim, he shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than ninety days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar.

(b) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims presented to the personal representative or filed with the clerk of the court in due time and not barred by subsection (a) of this section. Notice in this proceeding shall be given to the claimant, the personal representative and those other persons interested in the estate as the court may direct by order entered at the time the proceeding is commenced.

(c) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(d) Unless otherwise provided in any judgment in another court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing sixty days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

Sec. 3-807 Payment of claims. (a) Upon the expiration of four months from the date of the first publication of the notice to creditors, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for homestead, family and support allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the

court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(b) The personal representative at any time may pay any just claim which has not been barred, with or without formal presentation, but, if the estate has insufficient assets with which to pay all other claims with equal or greater priority, he is personally liable to any other claimant whose claim is allowed and who is injured by such payment if:

- (1) The payment was made before the expiration of the time limit stated in subsection (a) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or
- (2) The payment was made, due to the negligence or wilful fault of the personal representative, in such manner as to deprive the injured claimant of his priority.

Sec. 3-808 Individual liability of personal representative. (a) Unless otherwise provided in the contract, a personal representative is personally liable on contracts entered into in his fiduciary capacity in the course of administration of the estate.

(b) A personal representative is personally liable for obligations arising from ownership or control of the estate and for torts committed in the course of administration of the estate.

(c) Claims based on contracts entered into by a personal representative in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in his fiduciary capacity, whether or not the personal representative is personally liable therefor.

(d) Issues of liability as between the estate and the personal representative personally may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

Sec. 3-809 Secured claims. Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders his security; otherwise payment is upon the basis of one of the following:

- (1) If the creditor exhausts his security before receiving payment, unless precluded by other law upon the amount of the claim allowed less the fair value of the security; or
- (2) If the creditor does not have the right to exhaust his security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation.

Sec. 3-810 Claims not due and contingent or unliquidated claims. (a) If a claim which will become due at a future time or a contingent or unliquidated

claim becomes due or certain before the distribution of the estate, and if the claim has been allowed or established by a proceeding, it is paid in the same manner as presently due and absolute claims of the same class.

(b) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

- (1) If the claimant consents, he may be paid the present or agreed value of the claim, taking any uncertainty into account;
- (2) Arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise.

Sec. 3-811 Counterclaims. In allowing a claim the personal representative may deduct any counterclaim which the estate has against the claimant. In determining a claim against an estate a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

Sec. 3-812 Execution and levies prohibited. No execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative, but this section shall not be construed to prevent the enforcement of mortgages, pledges, liens or other secured interests upon real or personal property in an appropriate proceeding.

Sec. 3-813 Compromise of claims. When a claim against the estate has been presented in any manner, the personal representative may, if it appears for the best interest of the estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated.

Sec. 3-814 Encumbered assets. If any assets of the estate are encumbered by mortgage, pledge, lien, or other secured interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

Sec. 3-815 Administration in more than one state; duty of personal representative. (a) All assets of estates being administered in this State are subject to all claims, allowances and charges existing or established against the personal representative wherever appointed.

(b) If the estate either in this State or as a whole is insufficient to cover all family exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions, allowances and charges, each claimant whose claim has been allowed either in

this State or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this State, the creditor so benefited is to receive dividends from local assets only upon the balance of his claim after deducting the amount of the benefit.

(c) In case the family exemptions and allowances, prior charges and claims of the entire estate exceed the total value of the portions of the estate being administered separately and this State is not the state of the decedent's last domicile, the claims allowed in this State shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this State the amount to which they are entitled, local assets shall be marshalled so that each claim allowed in this State is paid its proportion as far as possible, after taking into account all dividends on claims allowed in this State from assets in other jurisdictions.

Sec. 3-816 Final distribution to domiciliary representative. The estate of a nonresident decedent being administered by a personal representative appointed in this State shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the benefit of the successors of the decedent unless (1) by virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified pursuant to the local law of this State without reference to the local law of the decedent's domicile; (2) the personal representative of this State, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative; or (3) the court or the registrar orders otherwise in a proceeding for a closing order under section 3-1001 or 3-1003. In other cases, distribution of the estate of a decedent shall be made in accordance with the other Parts of this Article.

PART 9. SPECIAL PROVISIONS RELATING TO DISTRIBUTION

Sec. 3-901 Successors' rights. The heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Heirs and devisees may establish title by the order of distribution. Persons entitled to property by homestead allowance or exemption may establish title thereto by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption.

Sec. 3-902 Distribution; order in which assets appropriated; abatement. (a) Except as provided in subsection (b) and except as provided in connection with the share of the surviving spouse who elects to take an elective share, shares of distributees abate, with personal property being abated prior to real property, in the following order: (1) property not disposed of by the will; (2) residuary devises; (3) general devises; (4) specific devises. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of

the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(b) If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection (a), the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

(c) If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from other interests in the remaining assets.

Sec. 3-903 Right of retainer. The amount of a noncontingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to him in a direct proceeding for recovery of the debt.

Sec. 3-904 (Reserved)

Sec. 3-905 Penalty clause for contest. A provision in a will purporting to penalize any interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

Sec. 3-906 Distribution in kind; valuation; method. (a) Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate shall be distributed in kind to the extent possible through application of the following provisions:

- (1) A specific devisee is entitled to distribution of the thing devised to him, and a spouse or child who has selected particular assets of an estate as provided in section 2-402 shall receive the items selected.
- (2) Any homestead or family allowance or devise payable in money may be satisfied by value in kind provided:
 - (i) The person entitled to the payment has not demanded payment in cash;
 - (ii) The property distributed in kind is valued at fair market value as of the date of its distribution; and
 - (iii) No residuary devisee has requested that the asset in question remain a part of the residue of the estate.
- (3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For

assets which do not have readily ascertainable values, a valuation as of a date not more than thirty days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

(4) The residuary estate shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests. In other cases, residuary property may be converted into cash for distribution.

(b) After the probable charges against the estate are known, the personal representative may mail by registered or certified mail, return receipt requested, or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to receive, if not waived earlier in writing, terminates if he fails to object in writing received by the personal representative within thirty days after mailing or delivery of the proposal. The court, however, on its own motion, or on the motion of a distributee upon a finding of excusable neglect by the distributee may order a different method of distribution if equity so compels.

Sec. 3-907 Distribution in kind; evidence. If distribution in kind is made, the order of distribution entered pursuant to section 3-1001 or 3-1003 shall evidence the distributee's title to the property.

Sec. 3-908 Distribution; right or title of distributee. Proof that a distributee is named in an order of distribution of assets in kind, or payment in distribution, from a personal representative, is evidence that the distributee has succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate, except that the personal representative may recover the assets or their value if the distribution was improper.

Sec. 3-909 Improper distribution; liability of distributee or claimant. Unless the distribution or payment no longer can be questioned because of adjudication estoppel, or limitation, a distributee of property improperly distributed or paid, or a claimant who was improperly paid, is liable to return the property improperly received and its income since distribution if he has the property. If he does not have the property, then he is liable to return the value as of the date of disposition of the property improperly received and its income and gain received by him.

Sec. 3-910 Purchasers from distributees protected. If property distributed in kind or a security interest therein is acquired for value, without actual knowledge of the fact that such distribution or acquisition was improper, by a purchaser from or lender to a distributee who is named in an order of distribution, or is so acquired by a purchaser from or lender to a transferee without such actual knowledge from such distributee, the purchaser or lender takes title free of rights of any interested person in the estate and incurs no personal liability to the estate, whether or not the distribution was proper.

Sec. 3-911 (Reserved)

Sec. 3-912 Private agreements among successors to decedent binding on personal representative. Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

Sec. 3-913 Distributions to trustee. (a) Before distributing to a trustee, the personal representative may require that the trust be registered if the state in which it is to be administered provides for registration and that the trustee inform the beneficiaries as provided in section 7-303.

(b) If the trust instrument does not excuse the trustee from giving bond, the personal representative may petition the appropriate court to require that the trustee post bond if he apprehends that distribution might jeopardize the interests of persons who are not able to protect themselves, and he may withhold distribution until the court has acted.

(c) No inference of negligence on the part of the personal representative shall be drawn from his failure to exercise the authority conferred by subsections (a) and (b).

Sec. 3-914 (Reserved)

Sec. 3-915 Distribution to person under disability. A personal representative may discharge his obligation to distribute to any person under legal disability by distributing to his guardian of the property, or any other person authorized by this chapter or otherwise to give a valid receipt and discharge for the distribution.

PART 10. CLOSING PROBATE PROCEEDINGS

Sec. 3-1001 Formal proceedings terminating administration; order of general protection. (a) If an estate is being administered in a supervised proceeding, or if the personal representative in an informal proceeding so elects, or upon the petition of an interested person in an informal proceeding and a finding of good cause by the court:

(1) A personal representative shall petition for an order of complete settlement of the estate within two years following the original appointment of a general personal representative for the estate, and any interested person may so petition after one year from the original appointment of a general personal representative for the estate, except that no petition under this section may be maintained until the time for presenting

- claims which arose prior to the death of the decedent has expired;
- (2) The petition shall request the court to approve the final accounts, to construe any will or determine heirs, to adjudicate the final settlement and distribution of the estate, to terminate the personal representative's appointment, and to discharge the personal representative from further claims;
 - (3) After notice pursuant to section 1-401 to all interested persons and hearing, the court shall enter an order or orders, on appropriate conditions, approving the final accounts, determining the persons entitled to distribution of the estate, and directing or approving settlement and distribution of the estate, terminating the personal representative's appointment and discharging the personal representative from further claim or demand of any interested person upon proof of distribution in the manner ordered.
- (b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, the probate proceedings, the court, on proper petition for an order of complete settlement of the estate under this section or on its own motion, and after notice to the omitted or unnotified persons and other interested persons, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute *prima facie* proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 3-1002 (Reserved)

Sec. 3-1003 Informal proceedings terminating administration; order of general protection. (a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative shall close an estate by filing with the registrar no later than one year following the original appointment of a general personal representative for the estate, a verified statement containing the following:

- (1) A statement that he, or a prior personal representative whom he has succeeded, has or have published notice to creditors as provided by section 3-801;
- (2) A statement that he, or a prior personal representative whom he has succeeded, has or have fully administered the estate of the decedent by making payment, settlement or other disposition of all claims which were timely presented (except as specified in the statement), and all estate, inheritance and other death taxes. If any claims or taxes remain undischarged, the statement shall state whether the personal representative has or intends to distribute the estate subject to possible liability with the agreement of the distributees or it shall state in detail other arrangements which have been made to accommodate such outstanding liabilities;

- (3) An itemization of all income received and all expenses paid by the personal representative or a prior personal representative whom he has succeeded, and of all property of the estate remaining in the hands of the personal representative;
 - (4) The names of all distributees of the estate and the property received or to be received by each; and
 - (5) Proof that a copy of the statement has been delivered to all interested persons pursuant to section 1-401 (except that published notice shall not be required) together with a statement advising them that they have thirty days from the date of mailing within which to deliver to the registrar any objection to the statement and a petition for a supervised closing.
- (b) If any interested person timely objects to a closing statement and files a petition for a supervised closing, proceedings pursuant to section 3-1001(a) above shall be maintained if the court finds good cause therefor. If no such petition or order is filed, the registrar without a hearing shall approve the closing statement, order the distribution specified therein, order the termination of the personal representative's appointment and discharge the personal representative from further claim or demand of any interested person upon proof of payment of taxes and distribution in the manner specified in the closing statement.

Sec. 3-1004 Liability of distributees to claimants. After assets of an estate have been distributed and subject to section 3-1006, an undischarged claim not barred may be prosecuted in a proceeding against the personal representative and one or more distributees. Except as provided in section 3-909, no distributee shall be liable to claimants for amounts received as exempt property, homestead or family allowance, or for amounts in excess of the value of his distribution as of the time of distribution. Unless otherwise provided pursuant to section 3-1003(a)(2), as between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who shall have failed to notify other distributees of the demand made upon him by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against him loses his right of contribution against other distributees.

Sec. 3-1005 Limitations on proceedings against personal representative. Unless previously barred by adjudication and except as provided in orders issued pursuant to sections 3-1001 and 3-1003, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within two years after the filing of the order discharging the personal representative. This section does not bar an action to recover from a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate, which action is covered by the statutes of limitation applicable thereto, including section 1-106.

Sec. 3-1006 Limitations on actions and proceedings against distributees. Unless previously barred by adjudication or otherwise, the rights of successors and of creditors whose claims have not otherwise been barred to recover property

improperly distributed or the value thereof from any distributee liable to return the property or pay the claim is forever barred at the later of (1) three years after the decedent's death; or (2) two years after the time of distribution thereof. This section does not bar an action to recover property or value received as the result of fraud, which action is covered by the statutes of limitation applicable thereto, including section 1-106.

Sec. 3-1007 Certificate discharging liens securing fiduciary performance.

After his appointment has terminated, the personal representative, his sureties, or any successor of either, upon the filing of a verified application showing, so far as is known by the applicant, that no action concerning the estate is pending in any court, is entitled to receive a certificate from the registrar or the court that the personal representative appears to have fully administered the estate in question. The certificate evidences discharge of any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety, but does not preclude action against the personal representative or the surety.

Sec. 3-1008 Subsequent administration. If other property of the estate is discovered after an estate has been settled and the personal representative discharged, the court upon petition of any interested person and upon notice as it directs may appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the court orders otherwise, the provisions of this chapter apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

PART 11. COMPROMISE OF CONTROVERSIES

Sec. 3-1101 Effect of approval of agreements involving trusts, inalienable interests, or interests of third persons. A compromise of any controversy as to admission to probate of any instrument offered for probate as the will of a decedent, the construction, validity, or effect of any probated will, the testacy status of the decedent, the rights or interests in the estate of the decedent of any successor, or the administration of the estate, if approved in a formal proceeding in the court for that purpose, is binding on all the parties thereto. An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities who are not parties to it.

Sec. 3-1102 Procedure for securing court approval of compromise. The procedure for securing court approval of a compromise is as follows:

- (1) The terms of the compromise shall be set forth in an agreement in writing which shall be executed by all competent persons and parents acting for any minor child having beneficial interests or having claims which will or may be affected by the compromise. Execution is not required by any person whose identity cannot be ascertained or whose whereabouts is unknown and cannot reasonably be ascertained.
- (2) Any interested person, including the personal representative or a trustee, then may submit the agreement to the court for its approval and for execution by the personal representative, the trustee of every affected testamentary trust, and other fiduciaries and representatives.

- (3) After notice to all interested persons or their representatives, including the personal representative of the estate and all affected trustees of trusts, the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests or persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries under its supervision to execute the agreement. Minor children may be bound only represented by a guardian ad litem who joins in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement.

PART 12. COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES

Sec. 3-1201 Collection of personal property by affidavit. Any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

- (1) The net value of the decedent's estate in this State does not exceed \$100;
- (2) No application or petition for the appointment of a personal representative is pending or has been granted in this State; and
- (3) The claiming successor is entitled to payment or delivery of the property and explaining the relationship of the claiming successor to the decedent.

Sec. 3-1202 Effect of affidavit. The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to affidavit is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Sec. 3-1203 (Reserved)

Sec. 3-1204 (Reserved)

Sec. 3-1205 Estates of \$10,000 or less; clerk of court to administer. If a person dies leaving property in this State of a total value not exceeding \$10,000, and a personal representative of the estate has not been appointed in the State, the clerk of the court of the judicial circuit in which the decedent was residing or

domiciled at the time of his death or left property may, upon the verified petition of the clerk or of any interested person, obtain an order authorizing him to administer the estate, and, as the personal representative, he shall collect and receive the property and administer the same. The order may be made without notice or hearing, at the discretion of the court. Except as otherwise specifically required or authorized by law or where he may be interested as an heir, or devisee, no clerk of any court shall act as personal representative of any estate where the value of the same is in excess of \$10,000. No fees shall be allowed the clerk, except as set forth in section 3-1211.

Sec. 3-1206 Publication by clerk of appointment as personal representative; notice to creditors, heirs, etc. Upon such appointment the clerk shall publish the fact by posting a notice thereof at the front entrance of the court house of the judicial circuit and by advertising the notice in the English language at least once in a newspaper of general circulation in the judicial circuit, the notice to state briefly that all creditors of the deceased must file with the clerk duly verified claims within sixty days from the date of the publication, and that all persons claiming to be heirs of the estate are requested to file with the clerk notice of such claims within the period. The court may direct that the advertising of the notice in a newspaper need not be made if it deems the same unnecessary.

Sec. 3-1207 Presentation of claims of creditors. All creditors of the decedent shall present their claims, duly verified under oath, to the clerk within sixty days from the date of the first publication.

Sec. 3-1208 Claims barred when. All claims of creditors not filed within the period of sixty days from the date of the first publication are forever barred.

Sec. 3-1209 Duties of clerk and distribution. The clerk shall make diligent effort to ascertain the names and whereabouts of the heirs, or the whereabouts of the devisees of the decedent and present evidence relating thereto to the court having jurisdiction of the proceedings. After the expiration of sixty days after the first publication, the clerk shall pay or distribute the money, funds, or property of the estate, or any balance thereof, after the payment of creditors' claims timely presented, either as an allowance for the support and maintenance of the surviving spouse or the dependents of the deceased or both, as authorized by the court, or to or among such persons as may be found by the court to be the persons entitled thereto as distributees.

Sec. 3-1210 Undistributed proceeds or balances, disposition. When any balance remains in the hands of the clerk, after payment of all creditors' claims timely presented, and no heirs or devisees of the decedent, entitled to the balance, can be located after reasonable search and inquiry, the clerk, after the expiration of one year after the first publication, shall report the fact to the court, which shall forthwith enter an order forwarding such property to the state director of finance, and the clerk thereupon shall immediately deposit the money or funds, or any balance, with the director for disposition as provided in chapter 523. The director at any time may authorize the payment out of the general funds of the State of any amount so forwarded to any person who establishes to the satisfaction of the director that he is legally entitled thereto as an heir or devisee of the

decedent, and the person shall be entitled to receive the amount thereof out of any moneys in the treasury not otherwise appropriated, upon warrant drawn by the state comptroller.

Sec. 3-1211 Exemption from costs. All proceedings had under and by virtue of this part 12, shall be free from all costs of court, except that the clerk may charge the actual expenses for advertising the notice specified in section 3-1206, the advertising, posting, or service fees required in carrying out any order of the court, including orders relating to the sale of real or personal property, and any expenses reasonably necessary for the preservation, disposal, distribution, and administration of the estate, together with a fee of three per cent of the market value of the gross estate, the fee to be paid into the treasury of the State as a government realization from any available assets of the estate; provided, that if the administration is completed by another personal representative on account of the size of the estate or for any other reason, no fee shall be charged by the clerk.

Sec. 3-1212 Estates of persons, leaving no known relatives. Every coroner, or medical examiner, who is called to investigate the death of any person leaving no known spouse, issue, parent, grandparent, or issue of grandparents over the age of majority in the State, shall take immediate charge of such decedent's personal effects and if in the discretion of the coroner the value of such personal effect is in excess of \$100, forthwith deliver them to the clerk of the court of the judicial circuit in which such decedent died.

If after ten days no person appears, competent to initiate appropriate probate proceedings, the clerk shall administer the estate pursuant to the provisions of this part 12; provided, that if such decedent's estate be of a value exceeding \$10,000, the clerk shall notify the judge of such circuit having charge of the probate calendar, and shall petition for the appointment of a personal representative of such estate other than the clerk. In the meantime the clerk may take such steps as may be appropriate to preserve and conserve the real and personal property of the decedent. All expenses in connection with the taking possession, care and conservation of the property and with such proceedings shall be proper charges against the estate of the decedent. The corporation counsel or 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 section.

If such decedent's estate be of a value not exceeding \$100 and such decedent has no known relatives or whose relatives have failed to indicate any means of disposition of such estate, then the coroner, or medical examiner, having custody of such property shall dispose of such property in an appropriate manner, which may be any one of the following or a combination thereof:

- (1) Where the estate consists only of money and is not in excess of \$100 and expenditures have been made in connection with such death, to reimburse the appropriate city and/or county office which made the disbursement to defray said expenses;
- (2) Where the estate consists of cash and/or personal belongings of monetary value, not exceeding \$100, to liquidate said personal belongings and apply the proceeds, together with the cash, if the total does not exceed \$100, in accordance with paragraph 1 hereinabove set

forth;

- (3) Where the assets in the estate are of no monetary value (unsaleable) and in his best judgment and discretion can be used by some charitable institution, to donate said assets to whatever charitable institution is willing and able to pick up the assets in question;
- (4) Where the assets have no value whatsoever or are in such condition that, in his best judgment and discretion, a charitable institution cannot use said properties, or will not receive said properties, to destroy the same in any manner he sees fit; and
- (5) If under paragraphs 1 and 2, there are assets remaining, then he shall forthwith forward the same to the state director of finance for disposition as provided in chapter 523.

Sec. 3-1213 Estates not in excess of \$700. Upon the death of any person dying intestate and leaving only personal property in the State not exceeding \$700 and where a personal representative has not been appointed in the State, a clerk of the court of the judicial circuit wherein the person was domiciled or if not domiciled in the State, the judicial circuit wherein he was residing or had personal property at the time of his death, may, upon the filing with the clerk by any interested person of a death certificate issued by a government agency and of an affidavit setting forth the above facts, the names of the heirs if known, and other pertinent facts as required by the clerk, collect or otherwise reduce to possession or turn into cash all assets of the estate. If after payment of funeral expenses as a preferred claim against the estate there are assets remaining, the clerk shall give notice to creditors and heirs as provided by section 3-1206 by posting, or if there are sufficient funds, by posting and advertising, and if after the period and distribution of assets to creditors of deceased persons who have filed proper claims there are assets remaining, then the clerk upon the facts contained in the affidavit as to heirship, shall deliver the assets to the personal representative, if any, or if no personal representative has been appointed, then to the heirs in accordance with the statutes of descent of the State. If no creditors, personal representative, or heirs appear or are found within sixty days of the notice, the clerk shall convert all personal property into cash and forthwith deposit the same with the state director of finance for disposition as provided in chapter 523.

Sec. 3-1214 Annual audit of accounts of clerk. Any other law to the contrary notwithstanding, the comptroller of the State shall audit not less frequently than annually the accounts and transactions of the clerks of the courts in their official capacity as guardians of the property of protected persons or as personal representatives of small estates, and report the results of the audit to the judges of the respective courts.

Sec. 3-1215 Prohibition on the private practice of law by attorneys for small estates. No person who, pursuant to sections 3-1205 to 3-1214, or any of them, performs any services as or for the clerk of the first circuit court, for which he is compensated from public funds, shall engage in the private practice of law, provided, that he shall be entitled to accept fees or other compensation in connection with masterships.

ARTICLE IV

FOREIGN PERSONAL REPRESENTATIVES;

ANCILLARY ADMINISTRATION

PART 1. DEFINITIONS

Sec. 4-101 Definitions. In this Article:

- (1) "Local administration" means administration by a local personal representative.
- (2) "Local personal representative" means any person, qualified under section 3-601 or a spouse, parent or child of the decedent, who is appointed personal representative in this State pursuant to appointment proceedings described in Article III.
- (3) "Resident creditor" means a person domiciled in, or doing business in this State, who is, or could be, a claimant against an estate of a nonresident decedent.

PART 2. POWERS OF FOREIGN PERSONAL REPRESENTATIVES

Sec. 4-201 (Reserved)

Sec. 4-202 (Reserved)

Sec. 4-203 (Reserved)

Sec. 4-204 (Reserved)

Sec. 4-205 (Reserved)

Sec. 4-206 (Reserved)

Sec. 4-207 (Reserved)

PART 3. JURISDICTION OVER FOREIGN REPRESENTATIVES

Sec. 4-301 Jurisdiction by act of foreign personal representative. A foreign personal representative submits personally to the jurisdiction of the courts of this State in any proceeding relating to the estate by (1) filing an application or petition for appointment as a local personal representative together with authenticated copies of his appointment, or (2) doing any act as a personal representative in this State which would have given the State jurisdiction over him as an individual.

Sec. 4-302 Jurisdiction by act of decedent. In addition to jurisdiction conferred by section 4-301, a foreign personal representative is subject to the jurisdiction of the courts of this State to the same extent that his decedent was subject to jurisdiction immediately prior to death.

Sec. 4-303 Service on foreign personal representative. (a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could

have been made under other laws of this State on either the foreign personal representative or his decedent immediately prior to death.

(b) If service is made upon a foreign personal representative as provided in subsection (a), he shall be allowed at least thirty days within which to appear or respond.

PART 4. JUDGMENTS AND PERSONAL REPRESENTATIVE

Sec. 4-401 (Reserved)

**ARTICLE V
PROTECTION OF PERSONS UNDER DISABILITY AND
THEIR PROPERTY**

PART 1. GENERAL PROVISIONS

Sec. 5-101 Definitions and use of terms. Unless otherwise apparent from the context, in this chapter:

- (1) "Guardianship proceeding" is a proceeding to appoint a guardian of the person for an incapacitated person or a minor;
- (2) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person;
- (3) A "protective proceeding" is a proceeding under the provisions of section 5-401 to determine that a person cannot effectively manage or apply his estate to necessary ends, either because he lacks the ability or is otherwise inconvenienced, or because he is a minor, and to secure administration of his estate by a guardian of the property or other appropriate relief;
- (4) A "protected person" is a minor or other person for whom a guardian of the property has been appointed or other protective order has been made;
- (5) A "ward" is a person for whom a guardian of the person has been appointed. A "minor ward" is a minor for whom a guardian of the person has been appointed solely because of minority.

Sec. 5-102 Jurisdiction of subject matter; consolidation of proceedings. The court has jurisdiction over protective proceedings and the family court has jurisdiction over guardianship proceedings.

Sec. 5-103 Facility of payment or delivery. Any person under a duty to pay or deliver money or personal property to a minor may perform this duty, once with respect to a minor in an amount not exceeding \$1,000, by paying or delivering the money or property to, (1) the minor, if he is married; (2) any person having the care and custody of the minor with whom the minor resides; (3) a guardian of

the person of the minor; or (4) a financial institution incident to a deposit in a federally insured savings account in the sole name of the minor and giving notice of the deposit to the minor. This section does not apply if the person making payment or delivery has actual knowledge that a guardian of the property has been appointed or proceedings for such appointment are pending. The persons, other than the minor or any financial institution under (4) above, receiving money or property for a minor, are obligated to apply the money to the support and education of the minor, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. Any excess sums shall be preserved for future support of the minor and any balance not so used and any property received for the minor must be turned over to the minor when he attains majority. Persons who pay or deliver in accordance with provisions of this section are not responsible for the proper application thereof.

Sec. 5-104 (Reserved)

PART 2. GUARDIANS OF THE PERSON OF MINORS

Sec. 5-201 Status of guardian of the person of minor; general. A person becomes a guardian of the person of a minor upon appointment by the family court. The guardianship status continues until terminated, without regard to the location from time to time of the guardian and minor ward.

Sec. 5-202 (Reserved)

Sec. 5-203 (Reserved)

Sec. 5-204 Court appointment of guardian of the person of minor; conditions for appointment; letters; priority of testamentary nominee. The family court may appoint a resident of this State as a guardian of the person for an unmarried minor if all parental rights of custody have been terminated or suspended by circumstances or prior court order. The appointment shall be evidenced by letters of guardianship. Such guardian may be nominated by the will of the minor's parent, and the family court shall give preference to any such nominee. The family court may appoint someone other than the testamentary nominee upon showing of cause.

Sec. 5-205 Court appointment of guardian of the person of minor; venue. The venue for guardianship proceedings for a minor is in the place where the minor resides or is present.

Sec. 5-206 Court appointments of guardian of the person of minor; qualifications; priority of minor's nominee. Subject to the provisions of section 5-204, the family court may appoint as guardian of the person of a minor any person whose appointment would be in the best interest of the minor, if the minor is fourteen years of age or older, unless the family court finds the appointment contrary to the best interests of the minor.

Sec. 5-207 Court appointment of guardian of the person of minor; procedure. (a) Notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor is to be given by the petitioner

in the manner prescribed by section 1-401 to:

- (1) The minor, if he is fourteen or more years of age;
- (2) The person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition;
- (3) Any living legal parent or grandparent of the minor; and
- (4) Any guardian of the minor's property.

(b) Upon hearing, if the family court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 5-204 have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the family court may dismiss the proceedings, or make any other dispositions of the matter that will best serve the interests of the minor.

(c) If necessary, the family court may appoint a temporary guardian of the person, with the status of an ordinary guardian of the person of a minor, but the authority of such temporary guardian shall not last longer than ninety days.

(d) If, at any time in the proceeding, the family court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen years of age or older.

Sec. 5-208 Consent to service by acceptance of appointment; notice. By accepting appointment as guardian, a guardian of the person submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian of the person, or mailed to him by ordinary mail at his address as listed in the court records and to his address as then known to the petitioner.

Sec. 5-209 Powers and duties of guardian of the person of minor. A guardian of the person of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian of the person is not legally obligated to provide from his own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular, and without qualifying the foregoing, a guardian of the person has the following powers and duties:

- (1) He must take reasonable care of his ward's personal effects and commence protective proceedings if necessary to protect other property of the ward.
- (2) He may receive money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, guardianship or custodianship. He may also receive money or property of the ward paid or delivered by virtue of section 5-103. Any sums so received shall be applied to the ward's current needs for support, care and education. He must exercise due care to conserve any excess for the ward's future needs unless a guardian of the property has been appointed for the ward, in which case excess shall be paid over at least annually to the guardian of the property. Sums so received by the guardian of the

person are not to be used for compensation for his services except as approved by order of court or as determined by a duly appointed guardian of the property other than the guardian of the person. A guardian of the person may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

- (3) The guardian of the person is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. A guardian of the person is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. A guardian of the person may consent to the marriage or adoption of his ward.
- (4) A guardian of the person must report the condition of his ward and of the ward's estate which has been subject to his possession or control, as ordered by the family court on petition of any person interested in the minor's welfare or as required by court rule.

Sec. 5-210 Termination of appointment of guardian of the person; general.

A guardian of the person's authority and responsibility terminates upon the death, resignation or removal of the guardian or upon the minor's death, adoption, marriage or attainment of majority, but termination does not affect his liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian of the person does not terminate the guardianship until it has been approved by the family court.

Sec. 5-211 Proceedings subsequent to appointment; venue. (a) The family court where the ward resides has concurrent jurisdiction with the court which appointed the guardian of the person, over resignation, removal, accounting and other proceedings relating to the guardianship.

(b) If the family court located where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced shall in all appropriate cases notify the other court, in this or another state, and after consultation with that court determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever is in the best interest of the ward. A copy of any order accepting a resignation or removing a guardian shall be sent to the court in which acceptance of appointment is filed.

Sec. 5-212 Resignation or removal proceedings. (a) Any person interested in the welfare of a ward, or the guardian ad litem requested by a ward fourteen or more years of age and appointed by the family court, may petition for removal of a guardian of the person on the ground that removal would be in the best interest of the ward. A guardian of the person may petition for permission to resign. A petition for removal or for permission to resign may, but need not, include a request for appointment of a successor guardian of the person.

(b) After notice and hearing on a petition for removal or for permission to resign, the family court may terminate the guardianship and make any further order that may be appropriate.

(c) If, at any time in the proceeding, the family court determines that the interests of the ward are, or may be, inadequately represented, it shall appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is fourteen or more years of age.

PART 3. GUARDIANS OF THE PERSON OF INCAPACITATED PERSONS

Sec. 5-301 Testamentary nomination of guardian of the person for incapacitated person. The parent or spouse of an incapacitated person may by will nominate a guardian of the person of the incapacitated person. The family court shall give preference to any such nominee, but the court may appoint someone other than the testamentary nominee upon a showing of cause. A testamentary nomination by a spouse shall be preferred by the family court over a nomination by a parent.

Sec. 5-302 Venue. The venue for guardianship proceedings for an incapacitated person is in the place where the incapacitated person resides or is present. If the incapacitated person is admitted to an institution pursuant to order of a court of competent jurisdiction, venue is also in the judicial circuit in which that court sits.

Sec. 5-303 Procedure for court appointment of a guardian of the person of an incapacitated person. (a) The incapacitated person or any person interested in his welfare may petition the family court for a finding of incapacity and appointment of a guardian of the person.

(b) Upon the filing of a petition, the family court shall set a date for hearing on the issues of incapacity and, if at any time in the proceeding, the court determines that the interests of the allegedly incapacitated person are or may be inadequately represented, it shall appoint an appropriate official or attorney to represent him in the proceeding, who shall have the powers and duties of a guardian ad litem. The person alleged to be incapacitated may be examined by a physician appointed by the family court who shall submit his report in writing to the court and shall be interviewed by a family court officer or other person designated by the family court. The family court officer or other person also shall interview the person seeking appointment as guardian of the persons, shall visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that he will be detained or reside if the requested appointment is made, and shall submit his report in writing to the family court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see or hear all evidence bearing upon his condition. He is entitled to be represented by an attorney, to present evidence, to cross-examine witnesses, including any person submitting a report and the family court officer or other person designated by the court to interview him. The issue may be determined at a closed hearing.

Sec. 5-304 Findings; order of appointment. The family court may appoint a resident of this State as a guardian of the person as requested if it is satisfied that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and

supervision of the person of the incapacitated person. The order of appointment may limit or otherwise modify the power of the guardian of the person or may specify areas in which the ward shall retain the power to make and carry out decisions concerning his person. Alternatively, the family court may dismiss the proceeding or enter any other appropriate order.

Sec. 5-305 Acceptance of appointment; consent to jurisdiction. By accepting appointment, a guardian of the person submits personally to the jurisdiction of the family court in any proceeding relating to the guardianship that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian or mailed to him by ordinary mail at his address as listed in the court records and to his address as then known to the petitioner.

Sec. 5-306 Termination of guardianship for incapacitated person. The authority and responsibility of a guardian of the person for an incapacitated person terminates upon the death of the guardian or ward, the determination of incapacity of the guardian, or upon removal or resignation as provided in section 5-307. Termination does not affect his liability for prior acts nor his obligation to account for funds and assets of his ward.

Sec. 5-307 Removal or resignation of guardian of the person; termination of incapacity. (a) On petition of the ward or any person interested in his welfare, the family court may remove a guardian of the person and appoint a successor if in the best interests of the ward. On petition of the guardian of the person, the family court may accept his resignation and make any other order which may be appropriate.

(b) An order adjudicating incapacity may specify a minimum period, not exceeding one year, during which no petition for an adjudication that the ward is no longer incapacitated may be filed without special leave. Subject to this restriction, the ward or any person interested in his welfare may petition for an order that he is no longer incapacitated, and for removal or resignation of the guardian of the person. A request for this order may be made by informal letter to the family court or judge and any person who knowingly interferes with transmission of this kind of request to the court or judge may be adjudged guilty of contempt of court.

(c) Before removing a guardian of the person, accepting the resignation of a guardian of the person, or ordering that a ward's incapacity has been terminated, the family court, shall follow the same procedures to safeguard the rights of the ward as apply to a petition for appointment of a guardian of the person under section 5-303.

Sec. 5-308 (Reserved)

Sec. 5-308A Periodic reports on status of ward. The court may require the guardian of the person to file a report as to the status of the ward on a periodic basis for such periods and at such times as the court may require from time to time. Such report shall describe the ward's residential arrangements, care and treatment services, educational and training programs, physical, mental and social condition, and such other matters as the court may direct for the period involved. Based upon such reports, the court may, upon its own motion, com-

mence proceedings pursuant to section 5-307 for the removal of a guardian, appointment of a successor, determining that the ward is no longer incapacitated, or making orders modifying in any respect the order of appointment.

Sec. 5-309 Notices in guardianship proceedings. (a) In a proceeding for the appointment or removal of a guardian of the person of an incapacitated person other than the appointment of a temporary guardian or temporary suspension of guardian, notice of the time and place of hearing shall be given by the petitioner to each of the following:

- (1) The ward or the person concerning whom the proceeding has been commenced and his spouse, legal parents, grandparents and adult children;
 - (2) Any person who is serving as the guardian of his estate or who has his care and custody; and
 - (3) In case no other person is notified under (1), at least one of his closest adult relatives, if any can be found.
- (b) Notice shall be served personally on the alleged incapacitated person, his spouse, his legal parents, and his grandparents, if they can be found within the State. Notice to such of those who cannot be found within the State, and to all other persons except the alleged incapacitated person shall be given as provided in section 1-401. Waiver of notice by the person alleged to be incapacitated is not effective unless he attends the hearing or his waiver of notice is confirmed in an interview with the person sent by the family court to interview him. Except as provided in section 5-303 representation of the alleged incapacitated person by a guardian ad litem is not necessary.

Sec. 5-310 Temporary guardians. If an incapacitated person has no guardian of the person and an emergency exists, the family court may exercise the power of a guardian of the person pending notice and hearing. If the family court finds that the welfare of the incapacitated person requires immediate action, it may, with or without notice, appoint any suitable individual as a temporary guardian of the person for the incapacitated person for a specified period not to exceed ninety days. A temporary guardian is entitled to the care and custody of the ward and the authority of any permanent guardian of the person previously appointed by the family court is suspended so long as a temporary guardian has authority. A temporary guardian may be removed at any time. A temporary guardian shall make any report the family court requires. In other respects the provisions of this chapter concerning guardians apply to temporary guardians.

Sec. 5-311 Who may be guardian of the person; priorities. (a) The family court may appoint any competent person or a suitable institution as guardian of the person of an incapacitated person, and, in the selection thereof, the family court shall in all cases consider the best interests of the ward.

(b) Except as otherwise provided in section 5-301, persons who are not disqualified are entitled to consideration for appointment in the following order:

- (1) The spouse of the incapacitated person, including a person nominated by will or other writing signed by a deceased spouse;
- (2) An adult child of the incapacitated person;
- (3) A parent of the incapacitated person, including a person nominated by

- will or other writing signed by a deceased parent;
- (4) Any relative of the incapacitated person with whom he has resided for more than six months prior to the filing of the petition;
 - (5) A person nominated by the person who is caring for him or paying benefits to him.

The family court, for good cause, may pass over a person having priority and appoint a person having less or no priority.

Sec. 5-312 General powers and duties of guardian of the person. (a) A guardian of the person of an incapacitated person has the same powers, rights and duties respecting his ward that a parent has respecting his unemancipated minor child except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship. In particular, and without qualifying the foregoing, a guardian of the person has the following powers and duties, except as modified by order of the family court:

- (1) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of abode within or without this State.
- (2) If entitled to custody of his ward he shall make provision for the care, comfort and maintenance of his ward and, whenever appropriate, arrange for his training and education. Without regard to custodial rights of the ward's person, he shall take reasonable care of his ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of his ward is in need of protection.
- (3) He may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.
- (4) If no guardian of the property of the ward has been appointed, he may:
 - (i) Institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform his duty;
 - (ii) Receive money and tangible property deliverable to the ward and apply the money and property for support, care and education of the ward; but, he may not use funds from his ward's estate for room and board which he, his spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the family court made upon notice to at least one of the next of kin of the ward, if notice is possible. He must exercise care to conserve any excess for the ward's needs.
- (5) He shall report the condition of his ward and of the estate which has been subject to his possession or control, as required by the family court or family court rule.
- (6) If a guardian of the property has been appointed, all of the ward's estate received by the guardian of the person in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the guardian of the property for management as

provided in this chapter, and the guardian of the person must account to the guardian of the property for funds expended.

(b) Any guardian of the person of one for whom a guardian of the property also has been appointed shall control the custody and care of the ward, and is entitled to receive reasonable sums for his services and for room and board furnished to the ward as agreed upon between him and the guardian of the property, provided the amounts agreed upon are reasonable under the circumstances. The guardian of the person may request the guardian of the property to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

Sec. 5-313 Proceedings subsequent to appointment; venue. (a) The family court where the ward resides has concurrent jurisdiction with the court which appointed the guardian of the person, over resignation, removal, accounting and other proceedings relating to the guardianship.

(b) If the family court located where the ward resides is not the court in which acceptance of appointment is filed, the family court in which proceedings subsequent to appointment are commenced shall in all appropriate cases notify the other court, in this or another state, and after consultation with that court determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever may be in the best interest of the ward. A copy of any order accepting a resignation or removing a guardian shall be sent to the court in which acceptance of appointment is filed.

PART 4. PROTECTION OR PROPERTY OF PERSONS UNDER DISABILITY AND MINORS

Sec. 5-401 Protective proceedings. Upon petition and after notice and hearing in accordance with this Part, the court may appoint a resident of this State or a trust company organized under the laws of this State as a guardian of the property or make other protective order for cause as follows:

- (1) Appointment of a guardian of the property or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection which cannot otherwise be provided, has or may have business affairs which may be jeopardized or prevented by his minority, or that funds are needed for his support and education and that protection is necessary or desirable to obtain or provide funds.
- (2) Appointment of a guardian of the property or other protective order may be made in relation to the estate and affairs of a person if the court determines that (i) the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance or other incapacity; and (ii) the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds.

Sec. 5-402 (Reserved)

Sec. 5-403 Venue. Venue for proceedings under this Part is:

- (1) In the place in this State where the person to be protected resides whether or not a guardian of the person has been appointed in another place; or
- (2) If the person to be protected does not reside in this State, in any place where he has property.

Sec. 5-404 Original petition for appointment or protective order. (a) The person to be protected, any person who is interested in his estate, affairs or welfare including his parent, guardian of the person, or custodian, or any person who would be adversely affected by lack of effective management of his property and affairs may petition for the appointment of a guardian of the property or for other appropriate protective order.

(b) The petition shall set forth to the extent known, the interest of the petitioner; the name, age, residence and address of the person to be protected; the name and address of his guardian of the person, if any; the name and address of his nearest relative known to the petitioner; a general statement of his property with an estimate of the value thereof, including any compensation, insurance, pension or allowance to which he is entitled; and the reason why appointment of a guardian of the person or other protective order is necessary. If the appointment of a guardian of the property is requested, the petition also shall set forth the name and address of the person whose appointment is sought and the basis of his priority for appointment.

Sec. 5-405 Notice in protective proceedings. In a proceeding for the appointment or removal of a guardian of the property or other protective order, notice of the time and place of hearing to the persons, including a guardian of the person, to the persons, and in the manner specified in section 5-309, and to any person who has filed a request for notice under section 5-406.

Sec. 5-406 Protective proceedings; request for notice; interested person. Any interested person who desires to be notified before any order is made in a protective proceeding may file with the court a request for notice subsequent to payment of any fee required by statute or court rule. The clerk shall mail a copy of the demand to the guardian of the property if one has been appointed. A request is not effective unless it contains a statement showing the interest of the person making it and his address, or that of his attorney, and is effective only as to matters occurring after the filing. Any governmental agency paying or planning to pay benefits to the person to be protected is an interested person in protective proceedings.

Sec. 5-407 Procedure concerning hearing and order on original petition. (a) Upon receipt of a petition for appointment of a guardian of the property or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it shall appoint an appropriate official or attorney to represent the minor in the proceeding, giving consideration to the choice of the minor if fourteen years of age or older, who shall have the powers and duties of a guardian ad litem.

(b) Upon receipt of a petition for appointment of a guardian of the property or other protective order for reasons other than minority, the court shall set a date for hearing on the matters alleged in the petition. Unless the person to be protected has competent counsel of his own choice, the court shall appoint an appropriate official or attorney to represent him, who shall have the powers and duties of a guardian ad litem. If the alleged disability is mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court, preferably a physician who is not connected with any institution in which the person is a patient or is detained. The court shall appoint a court officer or other person to interview the person to be protected and the person seeking appointment. The person so appointed shall submit his report in writing to the court.

(c) The person to be protected is entitled to be present at the hearing in person, and to see or hear all evidence bearing upon his condition. He is entitled to be represented by an attorney, to present evidence, to cross-examine witnesses, including any person submitting a report and the court officer or other person appointed by the court to interview him.

(d) After hearing, upon finding that a basis for the appointment of a guardian of the property or other protective order has been established, the court shall either make an appointment by granting letters of guardianship or make other appropriate protective order.

Sec. 5-408 Permissible court orders. The court has the following powers which may be exercised directly or through a guardian of the property in respect to the estate and affairs of protected persons:

- (1) While a petition for appointment of a guardian of the property or other protective order is pending and after preliminary hearing and without notice to others, the court has power to preserve and apply the property of the person to be protected as may be required for his benefit or the benefit of his dependents.
- (2) After hearing and upon determining that a basis for an appointment or other protective order exists with respect to a minor without other disability, the court has all those powers over the estate and affairs of the minor which are or might be necessary for the best interests of the minor, his family and members of his household.
- (3) After hearing and upon determining that a basis for an appointment or other protective order exists with respect to a person for reasons other than minority, and subject to the limitations as to specified powers as contained in subparagraph (4) below, the court has, for the benefit of the person and members of his household, all the powers over his estate and affairs which he could exercise if present and not under disability, except the power to make a will. These powers include, but are not limited to power to make gifts, to convey or release his contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety, to exercise or release his powers as trustee, personal representative, custodian for minors, guardian of the property, or donee of a

power of appointment, to enter into contracts, to create revocable or irrevocable trusts of property of the estate which may extend beyond his disability or life, to exercise options of the disabled person to purchase securities or other property, to exercise his rights to elect options and change beneficiaries under insurance and annuity policies and to surrender the policies for their cash value, to exercise his right to an elective share in the estate of his deceased spouse and to renounce any interest by testate or intestate succession or by inter vivos transfer.

- (4) The court may exercise or direct the exercise of, its authority to sell, mortgage, lease or otherwise encumber the real property of the protected person, to exercise or release powers of appointment of which the protected person is donee, to renounce interests, to make gifts in trust or otherwise exceeding twenty per cent of any year's income of the estate or to change beneficiaries under insurance and annuity policies, only if satisfied, after a hearing preceded by notice pursuant to section 1-401 to the persons entitled to notice under section 5-405, that it is in the best interests of the protected person, and that he either is incapable of consenting or has consented to the proposed exercise of power.
- (5) An order made pursuant to this section determining that a basis for appointment of a guardian of the property or other protective order exists, has no effect on the capacity of the protected person.

Sec. 5-409 Protective arrangements and single transactions authorized. (a) If it is established in a proper proceeding that a basis exists as described in section 5-401 for affecting the property and affairs of a person the court, without appointing a guardian of the property, may authorize, direct or ratify any transaction necessary or desirable to achieve any security, service, or care arrangement meeting the foreseeable needs of the protected person. Protective arrangements include, but are not limited to, payment, delivery, deposit or retention of funds or property, sale, mortgage, lease or other transfer of property, entry into an annuity contract, a contract for life care, a deposit contract, a contract for training and education, or addition to or establishment of a suitable trust.

(b) When it has been established in a proper proceeding that a basis exists as described in section 5-401 for affecting the property and affairs of a person the court, without appointing a guardian of the property, may authorize, direct or ratify any contract, trust or other transaction relating to the protected person's financial affairs or involving his estate if the court determines that the transaction is in the best interests of the protected person.

(c) Before approving a protective arrangement or other transaction under this section, the court shall consider the interests of creditors and dependents of the protected person and, in view of his disability, whether the protected person needs the continuing protection of a guardian of the property. The court may appoint a special guardian of the property to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who shall have the authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

Sec. 5-410 Who may be appointed guardian of the property; priorities. (a) The court may appoint an individual, or a corporation with general power to serve as trustee, as guardian of the property of a protective person, and, in the selection thereof, the court shall in all cases consider the best interests of the protected person. The following are entitled to consideration for appointment in the following order:

- (1) A guardian of the property or other like fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides;
 - (2) An individual or corporation nominated by the protected person if he is fourteen or more years of age and has, in the opinion of the court, sufficient mental capacity to make an intelligent choice;
 - (3) The spouse of the protected person;
 - (4) An adult child of the protected person;
 - (5) A parent of the protected person, or a person nominated by the will of a deceased parent;
 - (6) Any relative of the protected person with whom he has resided for more than six months prior to the filing of the petition;
 - (7) A person nominated by the person who is caring for him or paying benefits to him.
- (b) A person in priorities (1), (3), (4), (5), or (6) may nominate in writing a person to serve in his stead. With respect to persons having equal priority, the court is to select the one who is best qualified of those willing to serve. The court, for good cause may pass over a person having priority and appoint a person having less priority or no priority.

Sec. 5-411 Bond. The court may require a guardian of the property to furnish a bond to insure his faithful discharge of all duties according to law, with sureties as it shall specify. The bond shall be in an amount determined by the court. The court in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

Sec. 5-412 Terms and requirements of bonds. (a) The following requirements and provisions apply to any bond required under section 5-411:

- (1) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the guardian of the property and with each other;
- (2) No bond hereunder shall be conditioned so as to relieve the surety from liability either on account of any breach by the guardian of the property of his duties to the court, the registrar, the estate or interested persons, or on account of a failure by the guardian of the property to perform the acts or duties required of him by this chapter, and any provision of a bond which seeks to so limit the surety's liability shall be void and of no effect.
- (3) By executing an approved bond of a guardian of the property, the surety consents to the jurisdiction of the court which issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the guardian of the property and naming the surety as a party defendant.

dant. Notice of any proceeding shall be delivered to the surety or mailed to him by registered or certified mail at his address as listed with the court where the bond is filed and to his address as then known to the petitioner;

- (4) On petition of a successor guardian of the property or any interested person, a proceeding may be initiated against a surety for breach of the obligation of the bond of the guardian of the property;
 - (5) The bond of the guardian of the property is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.
- (b) No proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

Sec. 5-413 Acceptance of appointment; consent to jurisdiction. By accepting appointment, a guardian of the property submits personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding shall be delivered to the guardian of the property, or mailed to him by registered or certified mail, return receipt required, at his address as listed in the petition for appointment or as thereafter reported to the court and to his address as then known to the petitioner.

Sec. 5-414 Compensation and expenses. If not otherwise compensated for services rendered, any person appointed by the court, and any attorney, physician, guardian of the property, or special guardian of the property appointed in a protective proceeding is entitled to reasonable compensation from the estate as approved by the court.

Sec. 5-415 Death, resignation or removal of guardian of the property. The court may remove a guardian of the property for good cause, upon notice and hearing, or accept his resignation. After his death, resignation or removal, the court may appoint another guardian of the property. A guardian of the property so appointed succeeds to the title and powers of his predecessor.

Sec. 5-416 Petitions for orders subsequent to appointment. (a) Any person interested in the welfare of a person for whom a guardian of the property has been appointed may file a petition in the appointing court for an order (1) requiring bond or security or additional bond or security, or reducing bond; (2) requiring an accounting for the administration of the guardianship; (3) directing distribution; (4) removing the guardian of the property and appointing a temporary or successor of the property; or (5) granting other appropriate relief.

(b) A guardian of the property may petition the appointing court for instructions concerning his fiduciary responsibility.

(c) Upon notice and hearing, the court may give appropriate instructions or make any appropriate order.

Sec. 5-417 General duty of guardian of the property. In the exercise of his powers, a guardian of the property is to act as a fiduciary and shall observe the standards of care applicable to trustees as described by section 7-302.

Sec. 5-418 Inventory and records. Within ninety days after his appoint-

ment, every guardian of the property shall prepare and file with the appointing court a complete inventory of the estate of the protected person together with his oath or affirmation that it is complete and accurate so far as he is informed. The guardian of the property shall provide a copy thereof to the protected person if he can be located, has attained the age of fourteen years, and has sufficient mental capacity to understand these matters, and to any parent or guardian of the person with whom the protected person resides. The guardian of the property shall keep suitable records of his administration and exhibit the same on request of any interested person.

Sec. 5-419 Accounts. Every guardian of the property must account to the court for his administration of the guardianship upon his resignation or removal, on termination of the protected person's minority or disability, and periodically for such periods and at such times as the court may direct. Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a guardian of the property, adjudicates as to his liabilities concerning the matters considered in connection therewith; and an order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the guardian of the property to the protected person or his successors relating to the guardianship. In connection with any account, the court may require a guardian of the property to submit to a physical check of the estate in his control, to be made in any manner the court may specify.

Sec. 5-420 Guardians of the property; title by appointment. The appointment of a guardian of the property vests in him title as trustee to all property of the protected person, presently held or thereafter acquired, including title to any property theretofore held for the protected person by custodians or attorneys in fact. The appointment of a guardian of the property is not a transfer or alienation within the meaning of general provisions of any federal or state statute or regulation, insurance policy, pension plan, contract, will or trust instrument, imposing restrictions upon or penalties for transfer or alienation by the protected person of his rights or interest, but this section does not restrict the ability of persons to make specific provision by contract or dispositive instrument relating to a guardian of the property.

Sec. 5-421 Recording of guardian of the property's letters. Letters of guardianship are evidence of transfer of all assets of a protected person to the guardian of the property. An order terminating a guardianship is evidence of transfer of all assets of the estate from the guardian of the property to the protected person, or his successors. Subject to the requirements of general statutes governing the filing or recordation of documents of title to land or other property, letters of guardianship, and orders terminating guardianships, may be filed or recorded to give record notice of title as between the guardian of the property and the protected person.

Sec. 5-422 Sale, encumbrance of transaction involving conflict of interest; court approval. Any sale or encumbrance to a guardian of the property, his spouse, agent or attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected by a substantial

conflict of interest must be approved by the court after notice to interested persons and others as directed by the court.

Sec. 5-423 Persons dealing with guardians of the property; protection. A person who in good faith either assists a guardian of the property or deals with him for value in any transaction other than those requiring a court order as provided in sections 5-408 and 5-424, is protected as if the guardian of the property properly exercised the power. The fact that a person knowingly deals with a guardian of the property does not alone require the person to inquire into the existence of a power or the propriety of its exercise, except that restrictions on powers of guardians of the property which are endorsed on letters as provided in section 5-426 are effective as to third persons. A person is not bound to see to the proper application of estate assets paid or delivered to a guardian of the property. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

Sec. 5-424 Powers of guardian of the property in administration. Subject to the restrictions of sections 5-408(4) and 5-422: (a) A guardian of the property has all of the powers conferred herein and any additional powers conferred by law on trustees in this State. In addition, an individual guardian of the property of an unmarried minor, as to whom no one has parental rights, has the duties and powers of a guardian of the person of a minor described in section 5-209 until the minor marries, but the parental rights so conferred on a guardian of the property do not preclude appointment of a guardian of the person as provided by Part 2.

(b) A guardian of the property has power without court authorization or confirmation, to invest and reinvest funds of the estate as would a trustee.

(c) A guardian of the property, acting reasonably in efforts to accomplish the purpose for which he was appointed, may act without court authorization or confirmation, to:

- (1) Collect, hold and retain assets of the estate including land in another state, until, in his judgment, disposition of the assets should be made, and the assets may be retained even though they include an asset in which he is personally interested;
- (2) Receive additions to the estate;
- (3) Continue or participate in the operation of any business or other enterprise;
- (4) Acquire an undivided interest in an estate asset in which the guardian of the property, in any fiduciary capacity, holds an undivided interest;
- (5) Invest and reinvest estate assets in accordance with subsection (b);
- (6) Deposit estate funds in a bank including a bank operated by the guardian of the property;
- (7) Acquire or dispose of an estate asset including land in another state for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;
- (8) Make ordinary or extraordinary repairs or alterations in buildings or

- other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;
- (9) Subdivide, develop, or dedicate land to public use; to make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange or to partition by giving or receiving considerations; and to dedicate easements to public use without consideration;
 - (10) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the guardianship;
 - (11) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
 - (12) Grant an option involving disposition of an estate asset, to take an option for the acquisition of any asset;
 - (13) Vote a security, in person or by general or limited proxy;
 - (14) Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;
 - (15) Sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
 - (16) Hold a security in the name of a nominee or in other form without disclosure of the guardianship so that title to the security may pass by delivery, but the guardian of the person is liable for any act of the nominee in connection with the stock so held;
 - (17) Insure the assets of the estate against damage or loss, and the guardian of the property against liability with respect to third persons;
 - (18) Borrow money to be repaid from estate assets or otherwise; to advance money for the protection of the estate or the protected person, and for all expenses, losses, and liability sustained in the administration of the estate or because of the holding or ownership of any estate assets and the guardian of the property has a lien on the estate as against the protected person for advances so made;
 - (19) Pay or contest any claim; to settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and to release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;
 - (20) Pay taxes, assessments, compensation of the guardian of the property, and other expenses incurred in the collection, care, administration and protection of the estate;
 - (21) Allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;
 - (22) Pay any sum distributable to a protected person or his dependent, without liability to the guardian of the property by paying the sum to the distributee or by paying the sum for the use of the distributee either

to his guardian or if none, to a relative or other person with custody of his person;

- (23) Employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the guardian of the property to advise or assist him in the performance of his administrative duties; to act upon their recommendation without independent investigation; and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary;
- (24) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of estate assets and of the guardian of the property in the performance of his duties; and
- (25) Execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the guardian of the property.

Sec. 5-425 Distributive duties and powers of guardian of the property. (a) A guardian of the property may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care or benefit of the protected person and his dependents in accordance with the following principles:

- (1) The guardian of the property is to consider recommendations relating to the appropriate standard of support, education and benefit for the protected person made by a parent or guardian of the person, if any. He may not be surcharged for sums paid to persons or organizations actually furnishing support, education or care to the protected person pursuant to the recommendations of a parent or guardian of the person of the protected person unless he knows that said parent or guardian is deriving personal financial benefit therefrom, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person.
- (2) The guardian of the property is to expand or distribute sums reasonably necessary for the support, education, care or benefit of the protected person with due regard to (i) the size of the estate, the probable duration of the guardianship and the likelihood that the protected person, at some future time, may be fully able to manage his affairs and the estate which has been conserved for him; (ii) the accustomed standard of living of the protected person and members of his household; (iii) other funds or sources used for the support of the protected person.
- (3) The guardian of the property may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves, and who are in need of support.
- (4) Funds expended under this subsection may be paid by the guardian of the property to any person, including the protected person to reimburse for expenditures which the guardian of the property might have made, or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and where advance

payments are customary or reasonably necessary under the circumstances.

(b) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a guardian of the property for a protected person other than a minor has power to make gifts to charity and other objects as the protected person might have been expected to make, in amounts which do not exceed in total for any year twenty per cent of the income from the estate.

(c) When a minor who has not been adjudged disabled under section 5-401(2) attains his majority, his guardian of the property, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible, but such distribution shall not relieve the guardian of his duty to file final accounts under section 5-419.

(d) Subject to the provisions of section 5-429(d), when the guardian of the property is satisfied that a protected person's disability (other than minority) has ceased, the guardian of the property, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible, but such distribution shall not relieve the guardian of his duty to file final accounts under section 5-419.

(e) If a protected person dies, the guardian of the property shall retain for safekeeping any will of the deceased protected person which may have come into his possession, inform the executor or all beneficiaries named therein that he has the will, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto. If after forty days from the death of the protected person no other person has been appointed personal representative and no application or petition for probate is before the registrar or the court, the guardian of the property shall apply or petition for probate of the will, if any, and appointment as personal representative as provided in Article III.

Sec. 5-426 Enlargement or limitation of powers of guardian of the property. Subject to the restrictions in section 5-408(4), the court may confer on a guardian of the property at the time of appointment or later, in addition to the powers conferred on him by sections 5-424 and 5-425, any power which the court itself could exercise under sections 5-408(2) and 5-408(3). The court may, at the time of appointment or later, limit the powers of a guardian of the property otherwise conferred by sections 5-424 and 5-425, or previously conferred by the court, and may at any time relieve him of any limitation. If the court limits any power conferred on the guardian of the property by section 5-424 or 5-425, the limitation shall be endorsed upon his letters of guardianship.

Sec. 5-427 Preservation of estate plan. In investing the estate, and in selecting assets of the estate for distribution under subsections (a) and (b) of section 5-425, in utilizing powers of revocation or withdrawal available for the support of the protected person, and exercisable by the guardian of the property or the court, the guardian of the property and the court should take into account any known estate plan of the protected person, including his will, any revocable trust of which he is settlor, and any contract, transfer or joint ownership arrangement with provisions for payment or transfer of benefits or interests at his death to

another or others which he may have originated. The guardian of the property may examine the will of the protected person.

Sec. 5-428 Claims against protected person; enforcement. (a) A guardian of the property must pay from the estate all just claims against the estate and against the protected person arising before or after the guardianship upon their presentation and allowance. A claim may be presented by either of the following methods:

- (1) The claimant may deliver or mail to the guardian of the property a written statement of the claim indicating its basis, the name and address of the claimant and the amount claimed;
- (2) The claimant may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court and deliver or mail a copy of the statement to the guardian of the property.

A claim is deemed presented on the first to occur of receipt of the written statement of claim by the guardian of the property, or the filing of the claim with the court. The presentation of a claim tolls any statute of limitation relating to the claim until thirty days after its disallowance.

(b) A claimant whose claim has not been paid may petition the court for determination of his claim at any time before it is barred by the applicable statute of limitation, and, upon due proof, procure an order for its allowance and payment from the estate. If a proceeding is pending against a protected person at the time of appointment of a guardian of the property or is initiated against the protected person thereafter, the moving party must give notice of the proceeding to the guardian of the property if the outcome is to constitute a claim against the estate.

(c) If it appears that the estate in guardianship is likely to be exhausted before all existing claims are paid, preference is to be given to prior claims for the care, maintenance and education of the protected person or his dependents and existing claims for expenses of administration.

Sec. 5-429 Individual liability of guardian of the property. (a) Unless otherwise provided in the contract, a guardian of the property is not personally liable on a contract entered into in his fiduciary capacity in the course of administration of the estate.

(b) The guardian of the property is personally liable for obligations arising from ownership or control of property of the estate and for torts committed in the course of administration of the estate.

(c) Claims based on contracts entered into by a guardian of the property in his fiduciary capacity, on obligations arising from ownership or control of the estate, or on torts committed in the course of administration of the estate may be asserted against the estate by proceeding against the guardian of the property in his fiduciary capacity, whether or not he is personally liable therefor.

(d) Any question of liability between the estate and the guardian of the property personally may be determined in a proceeding for accounting, surcharge, or indemnification, or other appropriate proceeding or action.

Sec. 5-430 Termination of proceeding. The protected person, his personal representative, the guardian of the property or any other interested person may petition the court to terminate the guardianship. A protected person seeking

termination is entitled to the same rights and procedures as in an original proceeding for a protective order. The court, upon determining after notice and hearing that the minority or disability of the protected person has ceased, may terminate the guardianship. Upon termination, title to assets of the estate passes to the former protected person or to his successors subject to provision in the order for expenses of administration or to conveyances from the guardian of the property to the former protected person or his successors, to evidence the transfer.

Sec. 5-431 (Reserved)

Sec. 5-432 (Reserved)

PART 5. POWERS OF ATTORNEY

Sec. 5-501 When power of attorney not affected by disability. Whenever a principal designates another his attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, the authority of the attorney in fact or agent is exercisable by him as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or his heirs, devisees and personal representative as if the principal were alive, competent and not disabled. If a guardian of the person or of the property thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian of the property rather than the principal. The guardian of the property has the same power the principal would have had if he were not disabled or incompetent to revoke, suspend, or terminate all or any part of the power of attorney or agency.

Sec. 5-502 Other powers of attorney revoked upon death or disability. (a) Except as provided in section 5-501, the death, disability, or incompetence of any principal who has executed a power of attorney revokes or terminates the power whether or not the attorney in fact has actual knowledge of the death, disability or incompetence of the principal.

(b) This section shall not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.

**ARTICLE VI
NON-PROBATE TRANSFERS**

PART 1. MULTIPLE-PARTY ACCOUNTS

Sec. 6-101 Definitions. In this Part, unless the context otherwise requires:

(1) "Account" means a contract of deposit of funds between a depositor

- and a financial institution, and includes a checking account, savings account, certificate of deposit, share account and other like arrangement;
- (2) "Beneficiary" means a person named in a trust account as one for whom a party to the account is named as trustee;
 - (3) "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks, savings banks, savings and loan companies or associations, industrial loan companies, and credit unions;
 - (4) "Joint account" means an account payable on request presently or in the future to one or more of two or more parties whether or not mention is made of any right of survivorship;
 - (5) A "multiple-party account" is any of the following types of account: (i) a joint account, (ii) a P.O.D. account, or (iii) a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization or a regular fiduciary or trust account where the relationship is established other than by deposit agreement;
 - (6) "Net contribution" of a party to a joint account as of any given time is the sum of all deposits thereto made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question;
 - (7) "Party" means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian of the person or of the property, personal representative, or assignee, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he has a present right of withdrawal;
 - (8) "Payment" of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any set-off, or reduction or other disposition of all or part of an account pursuant to a pledge;
 - (9) "Proof of death" includes a death certificate or record or report which is *prima facie* proof of death under section 1-107;
 - (10) "P.O.D. account" ("payable on death") means an account payable on request to one person during lifetime and on his death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on

- the death of all of them to one or more P.O.D. payees;
- (11) "P.O.D. payee" means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons;
- (12) "Request" means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this Part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal;
- (13) "Sums on deposit" means the balance payable on a multiple-party account including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party;
- (14) "Trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client;
- (15) "Withdrawal" includes payment to a third person pursuant to check or other directive of a party.

Sec. 6-102 Ownership as between parties, and others; protection of financial institutions. The provisions of sections 6-103 to 6-105 concerning beneficial ownership as between parties and P.O.D. payees, or as between parties or beneficiaries of multiple-party accounts, are relevant only to controversies between these persons and their creditors and other successors, and have no bearing on the power of withdrawal of these persons as determined by the terms of account contracts. The provisions of sections 6-108 to 6-113 govern the liability of financial institutions who make payments pursuant thereto, and their setoff rights.

Sec. 6-103 Ownership during lifetime. (a) A joint account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each to the sums on deposit, unless there is clear and convincing evidence of a different intent.

(b) A P.O.D. account belongs to the original payee during his lifetime and not to the P.O.D. payee or payees; if two or more parties are named as original payees, during their lifetimes rights as between them are governed by subsection (a) of this section.

(c) Unless a contrary intent is manifested by the terms of the account or the deposit agreement or there is other clear and convincing evidence of an

irrevocable trust, a trust account belongs beneficially to the trustee during his lifetime, and if two or more parties are named as trustee on the account, during their lifetimes beneficial rights as between them are governed by subsection (a) of this section. If there is an irrevocable trust, the account belongs beneficially to the beneficiary.

Sec. 6-104 Right of survivorship. (a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention at the time the account is created. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under section 6-103 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.

- (b) If the account is a P.O.D. account,
 - (1) On death of one of two or more original payees the rights to any sums remaining on deposit are governed by subsection (a) of this section.
 - (2) On death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is a right of survivorship in the event of death of a P.O.D. payee thereafter.
- (c) If the account is a trust account,
 - (1) On death of one of two or more trustees, the rights to any sums remaining on deposit are governed by subsection (a) of this section, and
 - (2) On death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; if two or more beneficiaries survive, there is a right of survivorship in event of death of any beneficiary thereafter.
- (d) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of his estate.
- (e) A right of survivorship arising from the express terms of the account or under this section, or a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will.

Sec. 6-105 Effect of written notice to financial institution. The provisions of section 6-104 as to rights of survivorship are determined by the form of the account at the death of a party. This form may be altered by written order given by all parties to the financial institution to change the form of the account or to stop or vary payment under the terms of the account. The order or request must be signed by all parties, received by the financial institution during the parties' lifetime, and not countermanded by other written order of the parties during their lifetime.

Sec. 6-106 Accounts and transfers nontestamentary. Any transfers resulting from the application of section 6-104 are effective by reason of the account contracts involved and this statute and are not to be considered as testamentary or subject to Articles I to IV of this chapter except as provided in section 6-107.

Sec. 6-107 Rights against multiple party accounts. A transfer to a survivor pursuant to the provisions of section 6-104 can be set aside, to the extent described below, in the event the assets in the hands of the personal representative of the deceased party are insufficient to pay taxes, expenses of administration, and homestead and family allowances under sections 2-401 and 2-403. A surviving party, P.O.D. payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party may, on application of the personal representative of the deceased party's estate the surviving spouse of the deceased party, or one acting for a dependent or minor child of the deceased party, be required to account to said personal representative for the amount the decedent owned beneficially in the account immediately before his death to the extent necessary to discharge the insufficiency described above. No proceeding to assert this right shall be commenced later than two years following the death of the deceased party. Sums recovered hereunder shall be administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof, or make it liable to the estate of a deceased party unless before payment either the institution has been served with process in a proceeding by the personal representative or the institution has actual knowledge that making payment will jeopardize the payment of the taxes, expenses and allowances above mentioned.

Sec. 6-108 Financial institution protection; payment on signature of one party. Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Subject to the provision of sections 236-24 and 6-107, any multiple-party account may be paid, on request and according to its terms, to any one or more of the parties. A financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account.

Sec. 6-109 Financial institution protection; payment after death or disability; joint account. Subject to the provisions of section 236-24 and 6-107 any sums in a joint account may be paid, on request and according to its terms, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under section 6-104.

Sec. 6-110 Financial institution protection; payment of P.O.D. account. Any P.O.D. account may be paid, on request, to any original party to the account. Payment may be made, on request, to the P.O.D. payee or to the personal representative or heirs of a deceased P.O.D. payee upon presentation to the financial institution of proof of death showing that the P.O.D. payee survived all

persons named as original payees. Payment may be made to the personal representative or heirs of a deceased original payee if proof of death is presented to the financial institution showing that his decedent was the survivor of all other persons named on the account either as an original payee or as P.O.D. payee.

Sec. 6-111 Financial institution protection; payment of trust account. Subject to the provisions of section 6-107, any trust account may be paid, on request and according to its terms, to any trustee. Unless the financial institution has received written notice or has actual knowledge that the beneficiary has a vested interest not dependent upon his surviving the trustee, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the financial institution showing that the deceased trustee was the survivor of all other persons named on the account either as trustee or beneficiary. A trust account may be paid, on request and according to its terms, to the beneficiary upon presentation to the financial institution of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.

Sec. 6-112 Financial institution protection; discharge. Payment made pursuant to section 6-108, 6-109, 6-110, or 6-111 discharges the financial institution from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, P.O.D. payees, or beneficiaries, or their successors. The protection here given does not extend to payments made after a financial institution has received written notice from any party or has actual knowledge that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in any demand for withdrawal if the financial institution is to be protected under this section. No other notice or any other information shown to have been available to a financial institution shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

Sec. 6-113 Financial institution protection; set-off. Without qualifying any other statutory right to set-off or lien and subject to any contractual provision, if a party to a multiple-party account is indebted to a financial institution, the financial institution has a right to set-off against the account in which the party has or had immediately before his death a present right of withdrawal. The amount of the account subject to set-off is that proportion to which the debtor is, or was immediately before his death, beneficially entitled, and in the absence of proof of net contributions, to an equal share with all parties having present rights of withdrawal.

PART 2. (Reserved)

Sec. 6-201 (Reserved)

ARTICLE VII TRUST ADMINISTRATION

PART 1. TRUST REGISTRATION

Sec. 7-101 Duty to register trusts. The trustee of a trust having its principal place of administration in this State shall register the trust in the court in the judicial circuit either of the principal place of administration of the trust, or, in the case of a trust relating only to land, of the place where the land is located. Unless otherwise designated in the trust instrument, the principal place of administration of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business. In the case of co-trustees, the principal place of administration, if not otherwise designated in the trust instrument, is (1) the usual place of business of the corporate trustee if there is but one corporate co-trustee, or (2) the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate co-trustee, and otherwise (3) the usual place of business or residence of any of the co-trustees as agreed upon by them. The duty to register under this Part does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release.

Sec. 7-102 Registration procedures. Registration shall be accomplished by filing a statement indicating the name and address of the trustee in which it acknowledges the trusteeship. The statement shall indicate whether the trust has been registered elsewhere. The statement shall identify the trust:

- (1) In the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate;
- (2) In the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument.

If a trust has been registered elsewhere, registration in the State is ineffective until the earlier registration is released by order of the court where prior registration occurred, or an instrument executed by the trustee and all beneficiaries, filed with the registration in this State.

Sec. 7-103 Effect of registration. (a) By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the court in any proceeding under section 7-201 of this chapter relating to the trust that may be initiated by any interested person while the trust remains registered. Notice of any proceeding shall be delivered to the trustee in the manner required for the service of process by rule of court or, in the absence of any such rule, by mailing it to him by ordinary first class mail at his address as listed in the registration or as thereafter reported to the court and to his address as then known to the petitioner.

(b) To the extent of their interests in the trust, all beneficiaries of a trust properly registered in this State are subject to the jurisdiction of the court of registration for the purposes of proceedings under section 7-201, provided notice is given pursuant to section 1-401.

Sec. 7-104 Effect of failure to register. A trustee who fails to register a trust

in a proper court as required by this Part, for purposes of any proceedings initiated by a beneficiary of the trust prior to registration, is subject to the personal jurisdiction of any court in which the trust could have been registered. In addition, any trustee who, within thirty days after receipt of a written demand by a settlor or beneficiary of the trust, fails to register a trust as required by this Part is subject to removal and denial of compensation or to surcharge as the court may direct. Except as provided in section 1-108, a provision in the terms of the trust purporting to excuse the trustee from the duty to register, or directing that the trust or trustee shall not be subject to the jurisdiction of the court, is ineffective.

Sec. 7-105 (Reserved)

Sec. 7-106 Release of registration. Upon the termination and distribution of a registered trust, the trustee shall notify the court in which it is registered of such termination and distribution, whereupon the court may remove the record of the trust from its current registry of trusts.

PART 2. JURISDICTION OF COURT CONCERNING TRUSTS

Sec. 7-201 Court; jurisdiction of trusts. (a) The court has jurisdiction of proceedings initiated by trustees and interested persons concerning the internal affairs of trusts. Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trusts. These include, but are not limited to, proceedings to:

- (1) Appoint or remove a trustee;
- (2) Review trustees' fees and to review and settle interim or final accounts;
- (3) Ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust including questions of construction of trust instruments, to instruct trustees, and to determine the existence or nonexistence of any immunity, power, privilege, duty or right; and
- (4) Release registration of a trust.

(b) Neither registration of a trust nor a proceeding under this section result in continuing supervisory proceedings. The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the court as invoked by interested persons or as otherwise exercised pursuant to law.

Sec. 7-202 Trust proceedings; venue. Venue for proceedings involving registered trusts is in the judicial circuit which is the place of registration. Venue for proceedings involving trusts not registered in this State is any place where the trust properly could have been registered, and as otherwise provided by the Hawaii Rules of Civil Procedure.

Sec. 7-203 Trust proceedings; dismissal of matters relating to foreign trusts.

The court will not, over the objection of a party, entertain proceedings concerning the internal affairs of a trust registered or having its principal place of administration in another state, unless (1) all appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration or (2) the interests of justice otherwise would seriously be impaired. The court may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state in which the trust is registered or has its principal place of business, or the court may grant a continuance or enter any other appropriate order.

Sec. 7-204 Court; concurrent jurisdiction of litigation involving trusts and third parties. The court of the judicial circuit in which the trust is required to be registered has concurrent jurisdiction with other courts of this State of actions and proceedings to determine the existence or nonexistence of trusts created other than by will, of actions by or against creditors or debtors of trusts, and of other actions and proceedings involving trustees and third parties. Venue is determined by the rules generally applicable to civil actions.

Sec. 7-205 Proceedings for review of employment of agents and review of compensation of trustee and employees of trust. On petition of an interested person, after notice to all interested persons, the court may review the propriety of employment of any person by a trustee including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, the reasonableness of the determination of trust estate value or income made by the trustee for the purpose of computing the fee allowed by sections 607-18 and 607-20, and the reasonableness of any additional compensation for special services under sections 607-18 and 607-20. Any person who has received excessive compensation from a trust may be ordered to make appropriate refunds.

Sec. 7-206 Trust proceedings; initiation by notice; necessary parties. Proceedings under section 7-201 are initiated by filing a petition in the court and giving notice pursuant to section 1-401 to interested persons. The court may order notification of additional persons. A decree is valid as to all who are given notice of the proceeding though fewer than all interested persons are notified.

PART 3. DUTIES AND LIABILITIES OF TRUSTEES

Sec. 7-301 General duties not limited. Except as specifically provided, the general duty of the trustee to administer a trust expeditiously for the benefit of the beneficiaries is not altered by this chapter.

Sec. 7-302 Trustee's standard of care and performance. Except as otherwise provided by the terms of the trust, the trustee shall observe the standards in dealing with the trust assets that would be observed by a prudent man dealing with the property of another, and if the trustee has special skills or is named trustee on the basis of representations of special skills or expertise, he is under a duty to use those skills.

Sec. 7-303 Duty to inform and account to beneficiaries. Subject to the

provisions of section 1-108, the trustee shall keep the beneficiaries of the trust reasonably informed of the trust and its administration. In addition:

- (1) Within thirty days after his acceptance of the trust, the trustee shall inform in writing the persons currently entitled to benefits from the trust, and if possible, one or more persons who under section 1-403 may represent beneficiaries with future interests, of the court in which the trust is registered and of its name and address.
- (2) Upon reasonable request, the trustee shall provide the beneficiary with a copy of the terms of the trust which describe or affect his interest and with information about the assets of the trust and the particulars relating to the administration.
- (3) Upon reasonable request, a beneficiary is entitled to a statement of the accounts of the trust annually and on termination of the trust or change of the trustee.

Sec. 7-304 Duty to provide bond. A trustee need not provide bond to secure performance of his duties unless required by the terms of the trust, reasonably requested by a beneficiary or found by the court to be necessary to protect the interests of the beneficiaries who are not able to protect themselves and whose interests otherwise are not adequately represented. On petition of the trustee or other interested person the court may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If bond is required, it shall be filed in the court of registration or other appropriate court in amounts and with sureties and liabilities as provided in sections 3-604 and 3-606 relating to bonds of personal representatives.

Sec. 7-305 Trustee's duties; appropriate place of administration; deviation. A trustee is under a continuing duty to administer the trust at a place appropriate to the purposes of the trust and to its sound, efficient management. If the principal place of administration becomes inappropriate the court may for good cause enter any order furthering efficient administration and the interests of beneficiaries, including, if appropriate, release of registration, removal of the trustee, designation of administration in another state, and appointment of a trustee in another state. Trust provisions relating to the place of administration and to changes in the place of administration or of trustee control unless compliance would be contrary to efficient administration or the purposes of the trust. Views of adult beneficiaries shall be given weight pursuant to section 554-2, in determining the suitability of the trustee and the place of administration.

Sec. 7-306 Personal liability of trustee to third parties. (a) Unless otherwise provided in the contract, a trustee is personally liable on contracts entered into in his fiduciary capacity in the course of administration of the trust estate.

(b) A trustee is personally liable for obligations arising from ownership or control of property of the trust estate and for torts committed in the course of administration of the trust estate.

(c) Claims based on contracts entered into by a trustee in his fiduciary capacity, on obligations arising from ownership or control of the trust estate, or on torts committed in the course of trust administration may be asserted against

ACT 200

the trust estate by proceeding against the trustee in his fiduciary capacity, whether or not the trustee is personally liable therefor.

(d) The question of liability as between the trust estate and the trustee personally may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

Sec. 7-307 Limitations on proceedings against trustees after final account.

Unless previously barred by adjudication, consent or limitation, any claim against a trustee for breach of trust is barred as to any beneficiary who has received a final account or other statement fully disclosing the matter and showing termination of the trust relationship between the trustee and the beneficiary unless a proceeding to assert the claim is commenced within two years after receipt of the final account or statement. In any event and notwithstanding lack of full disclosure a trustee who has issued a final account or statement received by the beneficiary and has informed the beneficiary of the location and availability of records for his examination is protected after three years. A beneficiary is deemed to have received a final account or statement if accorded notice pursuant to section 1-401.

PART 4. POWERS OF TRUSTEES

Sec. 7-401 Powers of trustees. Trustees shall have, in addition to the powers set out in the trust agreement, the powers as provided in chapter 554 and otherwise as provided by law.

ARTICLE VIII EFFECTIVE DATE AND REPEALER

Sec. 8-101 Time of taking effect; provisions for transition. (a) This chapter takes effect on July 1, 1976, except that the provisions of Articles II, III and IV and the Hawaii Revised Statutes sections amended or repealed in this Article VIII on account of Articles II, III and IV take effect on July 1, 1977.

(b) Except as provided elsewhere in this chapter, on the effective date of this chapter:

- (1) The chapter applies to any wills of decedents dying thereafter;
- (2) The chapter applies to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this chapter;
- (3) Every executor of a will admitted to a probate prior to July 1, 1977 in this State and every administrator appointed prior to July 1, 1977 by a court of this State shall be a supervised personal representative with respect to the estate, and every guardian of the property appointed prior to July 1, 1976 by a court of this State shall be a guardian of the property, with only the powers conferred by this chapter and subject to the duties imposed by this chapter with respect to any act occurring or

done thereafter. Every guardian of a person holding an appointment on that date continues to hold the appointment but has only the powers conferred by this chapter and is subject to the duties imposed by this chapter with respect to any act occurring or done thereafter;

- (4) The consequences of an act done before the applicable effective date in any proceeding and any accrued right is not impaired by this chapter. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before July 1, 1977, the provisions of such statute shall remain in force with respect to that right;
- (5) Any rule of construction or presumption provided in this chapter applies to instruments executed and multiple-party accounts opened before July 1, 1976 unless there is a clear indication of a contrary intent.
- (6) Notwithstanding any of the above, this chapter shall not affect any property or other rights accrued under the case and statutory law of this State, including but not limited to the law relating to intestacy, dower and courtesy (chapters 532 and 533, Hawaii Revised Statutes), which became vested prior to July 1, 1977.

Sec. 8-102 Specific repealer and amendments. The following chapters and sections of the Hawaii Revised Statutes are amended or repealed as follows:

- (1) Effective July 1, 1977, wherever any of the terms "executor", "administrator" or "administrator with the will annexed" appears in the Hawaii Revised Statutes, the term "personal representative" is substituted. In preparing the supplements to the revised statutes, the revisor of statutes shall make such changes in any section as shall be necessary to avoid redundancy and to conform the punctuation to the intent of this Act; provided that he shall not alter the sense, meaning, or effect of any section.
- (2) Section 236-29 is amended to read:

"Sec. 236-29 Record kept by court clerk. The director of taxation shall furnish to each of the clerks of the several circuit courts a book, which shall be a public record, and in which he shall enter the name of every decedent, upon whose estate an application or petition has been made to the registrars or the circuit judges of the several circuit courts, for the issuance of letters of administration, or letters testamentary, or ancillary letters, the date and place of death of such decedent, the estimated value of his real and personal property, the names, places of residence, and relationship to him of his heirs-at-law, the names and places of residence of the legatees and devisees in any will of any such decedent, the amount of each legacy and the estimated value of any real property devised therein, and to whom devised. These entries shall be made from the data contained in the papers filed on any such application or petition, or in any proceeding relating to the estate of the decedent. The clerk of the circuit court shall also enter in such book the amount of personal property of any such decedent, as shown by the inventory thereof when made and filed in his office, and the returns made by any appraiser appointed by the circuit judge under this chapter, and the value of annuities, life estates, terms of years, and other property of such decedent, or given by him in his will or otherwise, as fixed by the circuit

judge, and the tax assessed thereon, and the amounts of any receipts for payment of any tax on the estate of such decedent under this chapter filed with him. The clerk of the circuit court shall, on the first day of January, April, July, and October of each year, make a report in duplicate, upon forms to be furnished by the director, containing all the data and matters required to be entered in such book, and also of the property from which, or the party from which he has reason to believe the tax under this chapter is due and unpaid, one copy of which shall be immediately delivered to the director and the other transmitted to the attorney general."

(3) Section 246-4 is amended to read:

"Sec. 246-4 Assessment of property; to whom in general. Real property shall be assessed in its entirety to the owner thereof; provided that where improved residential land has been leased for a term of fifteen years or more, the real property shall be assessed in its entirety to the lessee or his successor in interest holding the land for such term under such lease and the lessee or successor in interest shall be deemed the owner of the real property in its entirety for the purposes of this chapter; provided, however, that the lease and any extension, renewal, assignment, or agreement to assign the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to [July 1 of] January 1 preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all taxes levied on the property during the term of the lease.

"Improved residential land" as used herein means land improved with a single family dwelling on it.

For the purposes of this chapter, life tenants, personal representatives, trustees, guardians, or other fiduciaries may be, and persons holding government property under an agreement for the conveyance of the same to such persons shall be considered as owners during the time any real property is held or controlled by them as such. Lessees holding under any government lease shall be considered as owners during the time any real property is held or controlled by them as such, as more fully provided in section 246-36; and further, notwithstanding any provision to the contrary in this chapter, any tenant occupying government land, whether such occupancy be on a permit, license, month to month tenancy, or otherwise, shall be considered as owner where such occupancy has continued for a period of one year or more, as more fully provided in section 246-36. Persons holding any real property under an agreement to purchase the same, shall be considered as owners during the time the real property is held or controlled by them as such; provided the agreement to purchase (1) shall have been recorded in the bureau of conveyances, and (2) shall provide that the purchasers shall pay the real property taxes levied on the property. Persons holding any real property under a lease for a term to last during the lifetime of the lessee, shall be considered as owners during the time the real property is held or controlled by them as such; provided that the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to [July 1 of] January 1 preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all

taxes levied on the property during the term of the lease."

[Revisor's note. Underscored matter is substituted for the bracketed matter, effective January 1, 1977. L 1975, c 157, §3.]

(4) Section 246-7 is amended to read:

"Sec. 246-7 Fiduciaries, liability. Every personal representative, trustee, guardian, or other fiduciary shall be answerable as such for the performance of all such acts, matters, or things as are required to be done by this chapter in respect to the assessment of the real property he represents in his fiduciary capacity, and he shall be liable as such fiduciary for the payment of taxes thereon up to the amount of the available property held by him in such capacity, but he shall not be personally liable. He may retain, out of the money or other property which he may hold or which may come to him in his fiduciary capacity, so much as may be necessary to pay the taxes or to recoup himself for the payment thereof, or he may recover the amount thereof paid by him from the beneficiary to whom the property shall have been distributed."

(5) Sections 406-4 and 406-5 are amended to read:

"Sec. 406-4 Corporations acting as personal representatives, etc. Except as provided in section 3-601 of the Uniform Probate Code, no corporation or joint-stock company, except trust companies doing business under this chapter and except banks authorized to engage in a trust business, shall act as personal representative, guardian, assignee, or receiver or shall engage in the business of acting as trustee for the management and investment of funds of other persons, or shall continue to do business with the word "trust" or "trustee" in its corporate name, under penalty of \$10 for every day that it so acts or engages in business. The penalty may be recovered by the director of regulatory agencies in a civil action before any court of competent jurisdiction.

Sec. 406-5 Powers of trust companies. Every trust company shall have power, in addition to the general powers conferred by law upon corporations and joint-stock companies:

- (1) To take, receive, and hold, and repay, reconvey, and dispose of, any effects and property, both real and personal, which may be granted, devised, bequeathed, committed, transferred, or conveyed to it, upon any trust or trusts, at any time or times by any person or persons, including married women and minors, body or bodies corporate, or by any state, territorial, federal, or foreign court or judge, and to administer, fulfill, and discharge the duties of the trust or trusts for such remuneration as may be agreed upon or provided by law;
- (2) To act generally as agents or attorneys in the transaction of business or management of estates, the collection of rents, interest, dividends, mortgages, bonds, bills, notes, and securities for money;
- (3) To act as agent for the purpose of buying, selling, issuing, negotiating, registering, transferring, or countersigning the certificates of stock, bonds, or other obligations of any corporation, association, or municipality, and to manage any sinking fund therefor, on such terms as may be agreed upon;
- (4) To accept and to execute the offices of personal representative, trustee, receiver, assignee, or guardian, whether by appointment by will, by a

- court or judge, or otherwise;
- (5) To loan money upon real estate and collateral security and to execute and issue its notes and debentures, payable at a future date, and to pledge its mortgages on real estate and other securities as security therefor;
 - (6) To take and receive from any individual or corporation, on deposit for safekeeping and storage, gold and silver plate, jewelry, money, stocks, securities, and other valuables and personal property;
 - (7) To rent out the use of safes or other receptacles upon such terms and for such compensation as may be agreed upon;
 - (8) To lease, purchase, hold, and convey all such personal estate as may be necessary to carry on its business or that it may be necessary to acquire in the enforcement or settlement of any claims or demands arising out of its business transactions;
 - (9) To execute and issue in the transaction of its business all necessary receipts, certificates, papers, and contracts which shall be signed by such person or persons as may be designated in the bylaws;
 - (10) To lease, purchase, hold, and convey real estate as its corporate property;
 - (11) To purchase, hold, and sell the stocks and bonds of other corporations;
 - (12) To do a general trust and security business; and
 - (13) To transact as agents any other business or undertaking, trust, mercantile or otherwise, which may be necessary, useful, or convenient to the main purpose of the corporation.

Nothing herein shall be construed as giving the right to issue bills to circulate as money or to discount commercial paper, or to do a general banking business, or to do a savings bank business.

After June 30, 1970, no trust company shall have power to engage, directly or indirectly, in the business of acting as a real estate broker, stockbroker or insurance agent."

(6) Section 406-22 is amended by amending subsections (a) and (b) to read:

"(a) Fiduciary accounts. Within the limits of the standard prescribed by section 7-302 of the Uniform Probate Code, a trust company as fiduciary may acquire and retain every kind of property, real, personal, or mixed and every kind of investment, specifically including, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate obligations, and corporate stocks, preferred or common, and securities of any open-end or closed-end management type investment company or unit investment trust registered under the Federal Investment Company Act of 1940, as from time to time amended, and may retain property properly acquired without limitation as to time and without regard to its suitability for original purchase. Nothing herein shall authorize a departure from or variation of, the express terms or limitations set forth in the instrument creating the fiduciary relationship, but the terms "legal investment" or "authorized investment", or words of similar import, means any investment conforming to the foregoing standard.

(b) Depository. Any trust company acting as trustee or guardian holding funds awaiting investment, distribution, or other use may deposit the funds on

either demand or time with any state or national bank which has been designated as a depository by the director of regulatory agencies."

(7) Sections 501-171 and 501-172 are amended to read:

"Sec. 501-171 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 the will, either a certified copy of the order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the registrar or the circuit court terminating the personal representative's right to take possession and control of the 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 the 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 judgment of the registrar or the circuit court in an action determining the heirs, or a certified copy of an order of the registrar or the circuit court in probate proceedings terminating the personal representative's right to take possession and control of the 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.

Instruments which must be registered. No voluntary instrument or deed of a personal representative, assignee for the benefit of creditors, sheriff, master, commissioner, or other officer purporting to transfer or create a lien or charge upon any estate or interest of any devisee or heir in registered land or to authorize the same to be done, shall have any effect to accomplish that purpose until the title of the heir or devisee is registered as herein provided. An involuntary lien, charge, or lis pendens against the interest of a relict, heir, or devisee in the lands of a deceased registered owner, prior to the registration of the title of such relict, heir, or devisee, only can be obtained by filing the proper papers with the assistant registrar as in other cases, and the assistant registrar making entry thereof as a memorial on the registered certificate of title of the deceased owner, giving the name, residence, and post office address of the relict, heir, or devisee against whom the lien, charge, or lis pendens is to operate.

Sec. 501-172 License to sell or mortgage, not affected. Nothing in this chapter shall in any way affect or impair the jurisdiction of a circuit court to license a personal representative or guardian, to sell, mortgage, or convey registered land for any purpose for which a license may be granted in the case of unregistered land. The purchaser or mortgagee taking a deed executed in pursuance of a license is entitled to a new certificate of title, or memorandum of registration, on presenting his deed to the assistant registrar."

(8) Section 510-23 is amended to read:

"Sec. 510-23 Disposition upon death. Upon death of a married person, one-half of the property to which this part applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of the succession of this State. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this State. With respect to property to which this part applies, the one-half of the property which is the property of the decedent is not subject to the surviving spouse's right to elect against the will, is not included in the decedent's net estate which is subject to the elective share of the surviving spouse, and no estate of dower or courtesy exists in the property of the decedent."

(9) Chapter 511 is repealed.

(10) Sections 531-1 through 531-10 are repealed effective July 1, 1977.

(11) Sections 531-12 through 531-14 are repealed effective July 1, 1977.

(12) Sections 531-16 through 531-19 are repealed effective July 1, 1977.

(13) Sections 531-21 through 531-28 are repealed effective July 1, 1977.

(14) Effective July 1, 1977, section 531-29 is amended to read:

"Sec. 531-29 Confirmation of sales of real property by personal representatives. Notwithstanding any provisions of the Uniform Probate Code, any personal representative selling real property of the estate shall obtain from the court an order of confirmation of the sale before making conveyance of the real property sold. The order confirming the sale shall be given upon affirmative proof that the selling price was a fair and just price for the property sold.

If a sale being presented to the court for confirmation is a private sale, the court shall require a notice of the sale to be posted in an appropriate place in the courthouse of the circuit wherein the matter is pending and also of the circuit wherein the property is located, if they are different, at least fifteen days prior to considering the confirmation, the notice to set forth a description of the property, including the tax key number, the proposed sale price including the terms of payment, a description of any encumbrances thereon, the date of the confirmation hearing and a solicitation for sealed bids thereon or any other information required by the court. The court may also require that the notice be published at least twice in a newspaper in the circuit where the property is located, the last publication to be at least fifteen days prior to considering the confirmation. If a written offer in an amount at least ten per cent more on the first \$10,000 of the selling price and five per cent more on the amount of the selling price in excess of \$10,000 is made to the court by a responsible person, who may be the original offerer, prior to the hearing of confirmation, the court upon the hearing of confirmation, shall permit the original offerer to make a further offer, and if the new offer shall be in an amount at least five per cent more than the highest written offer made to the court, then the court shall, in such manner as it shall determine, permit the original offerer and the person making the highest written offer to make additional higher offers and shall confirm the sale to the one of the persons making the highest offer finally received; but if the original offerer shall not make a further offer as herein provided, then the court may accept the highest written offer and confirm the sale to the person making the offer.

Upon the confirmation of any sale, the court shall fix the compensation for the services to the estate of the agent securing the original offerer. In case of a sale on an increased bid made at the time of confirmation to a purchaser other than the original offerer, the court shall also fix the compensation payable by the estate to the agent, if any, producing the successful bidder, but the total compensation payable by the estate in that case shall not exceed the amount of the commission payable on the amount for which the sale is confirmed."

(15) Sections 531-30 through 531-32 are repealed effective July 1, 1977.

(15a) Effective July 1, 1977, parts III and IV of chapter 531 are repealed.

(16) Sections 532-1 through 532-15 are applicable to matters relating to persons who died, and rights accrued, prior to July 1, 1977, and such law shall continue in full force and effect as to any such rights notwithstanding the provisions of this Act, and the revisor of statutes is instructed to retain these sections in the Hawaii Revised Statutes with appropriate annotation.

(17) Effective July 1, 1977, section 533-1 is amended to read:

"Sec. 533-1 Dower. Every woman shall be endowed of one-third part of all the lands which are not included in the net estate of her husband which is subject to her elective share and which were owned by her husband in fee simple, in freehold, or in leasehold at any time during marriage, and prior to July 1, 1977, unless she is lawfully barred thereof. The interests to which the wife is entitled in accordance with this section in the husband's real property shall not apply to, and nothing in this section shall be deemed to give to the wife any interest in, the husband's interest in community property."

(18) Sections 533-2 through 533-16 are applicable to rights accruing prior to July 1, 1977, and such law shall continue in full force and effect as to any such rights notwithstanding the provisions of this Act, and the revisor of statutes is instructed to retain these sections in the Hawaii Revised Statutes with appropriate annotation.

(19) **(Reserved)**

(20) Effective July 1, 1977, section 533-17 is amended to read:

"Sec. 533-17 Standard of values; dower, etc. Whenever it becomes expedient or necessary to determine the value of any right of dower or any other life estate or interest in any property, in any proceeding for partition or for the admeasurement of dower, or wherein the value of any estate is required to be provided for out of the proceeds of sale of the property subject thereto, the value thereof shall be determined by the rule, method, and the standards of mortality and of value that are set forth in the standard annuity tables of mortality for ascertaining the value of policies of life insurance and annuities, using five per cent a year as the rate of interest in connection therewith.

When the dower in real estate cannot be set apart without great injury to the owners, the court may ascertain the value of the dower in money, and order the same to be paid on such terms as shall be just and reasonable."

(21) Chapter 536 is repealed effective July 1, 1977.

(22) Chapter 537 is repealed effective July 1, 1977.

(23) Chapter 538 is repealed effective July 1, 1977.

(24) Section 551-1 is amended to read:

"Sec. 551-1 Jurisdiction. Family courts shall have jurisdiction to appoint guardians of the person and circuit courts shall have jurisdiction to appoint guardians of the property. Either a guardian of the person or the property or both may be appointed."

(25) Section 551-11 through 551-13 are repealed.

(26) Sections 551-16 and 551-17 are repealed.

(27) Sections 551-21 and 551-22 are amended to read:

"Sec. 551-21 Small estates; clerk of court to act when. Whenever so requested as provided in section 5-404 of the Uniform Probate Code, the court may appoint the clerk of the court of that circuit as guardian of the property of the protected person whose estate is of a value of less than \$3,000 who shall serve in such capacity, with the full powers of and under like obligations as other guardians appointed under this chapter and the Uniform Probate Code, except that he shall not be required to give any bond; nor shall he be entitled to any commission or compensation except for expenses necessarily and actually incurred, nor shall he or the protected person or the estate of the protected person be liable for any court costs arising out of the guardianship, except the actual cost of any advertising found necessary. The right of the clerk to act as the guardian of the property shall not be effected by reason of any increase of the estate to an amount in excess of \$3,000 as the result of any accumulation of income accruing from the original principal of the estate or by the increase in value of the principal; provided, that if the estate reaches in value the sum of \$5,000 a guardian of the property shall then be appointed under the preceding sections of this chapter or the court may, in its discretion allow the guardian appointed under this section to continue to act even though the total assets exceed \$5,000.

Sec. 551-22 Estates less than \$100. (a) Estate of minor. When the whole estate of a minor does not exceed the value of \$100, the court may, in its discretion, without the appointment of a guardian of the property or the giving of bond authorize:

- (1) The deposit thereof in a depository authorized to receive fiduciary funds, payable to the guardian of the property when appointed or to the minor upon his attaining the age of majority; or
- (2) If the assets do not consist of money, the delivery thereof to a suitable person designated by the court, deliverable to the guardian of the property when appointed or to the minor upon his attaining the age of majority; or
- (3) The payment or delivery thereof to the parent of the minor, to the person having the care or custody of the minor or to the minor himself.

The person receiving such money or other assets shall hold and dispose of the same in such manner as the court shall direct.

(b) Estate of protected person. When the whole estate of a person over the age of eighteen for whom a guardian of the property could be appointed does not exceed the value of \$100, the court may, in its discretion, without the appointment of a guardian or the giving of bond, authorize the deposit thereof in a depository authorized to receive fiduciary funds in the name of a suitable person designated by the court, or if the assets do not consist of money, authorize the delivery thereof to a suitable person designated by the court. The person receiv-

ing such money or other assets shall hold and dispose of the same in such manner as the court shall direct."

- (28) Sections 551-26 through 551-34 are repealed.
- (29) Section 551-35 is amended to read:

"Sec. 551-35 Natural guardian of person alleged to be incapacitated or in need of protective proceedings. The father and mother of an incapacitated or protected person are jointly and severally the natural guardians of his person and property. They shall have equal powers and duties with respect to him and neither shall have any right superior to that of the other concerning his custody or control or any other matter affecting him; provided, that if either parent dies or abandons the family or is incapable for any reason to act as guardian, the guardianship devolves upon the other parent, and that when the parents live apart, the court may award the guardianship to either of them, having special regard to the interests of the incompetent adult person."

- (30) Sections 551-41 through 43 are repealed.
- (31) Sections 551-46 through 551-48 are repealed.
- (32) Sections 551-51 through 551-64 are repealed.
- (33) Sections 551-71 through 551-91 are repealed.
- (34) Chapter 552 is repealed.
- (35) Section 554-4 is amended to read:

"Sec. 554-4 Annual account; trustees to file. Every trustee acting under appointment of any court or under any appointment requiring the approval of any court, shall, except in cases where the prior trustee, if any, was not required by statute or the instrument creating the trust or appointing the trustee to file such an account, file annually with the court having jurisdiction thereof an account showing in detail all his receipts and disbursements, together with a full and detailed inventory of all property in his possession or under his control; provided that the court in cases in which it deems it advisable in the interests of the beneficiaries may permit the accounts to be filed biennially or triennially instead of annually or, if they are filed annually, may permit them to accumulate to be passed upon biennially or triennially; and provided further that the court on its own examination or that of its clerk, shall, without reference to a master, pass upon the accounts in cases in which the annual income does not exceed \$1,000, except in the case of a final account when the court may refer the same to a master, irrespective of the amount of the annual income, if for any reason it is deemed proper or necessary. If any such trustee fails to file his account as herein required, the clerk of the court in which the trustee is required to file the account, shall notify him promptly of such failure, and, if the trustee fails to file his account within thirty days after such notification, he shall be cited to appear before the court and be required to show cause why he should not be punished for contempt of court as provided by chapter 729 and he shall be subject to all of the penalties in such chapter provided. The court may also, in its discretion, remove any such trustee.

Unless otherwise required by the instrument creating the trust, nothing herein shall be construed to require the filing of an annual account by a trustee or trustee appointed by the court as additional trustee or trustees to serve with or in

the place and stead of a trustee or trustees appointed in the instrument creating a trust, nor by a trustee whose appointment is made in accordance with or pursuant to the instrument creating the trust where such appointment has been confirmed by any court in proceedings brought to secure the confirmation or approval thereof. This provision applies to trusts existing on May 13, 1935, and appointments made thereunder as well as to future trusts."

(36) Section 554-6 is amended to read:

"Sec. 554-6 Investments. Every trustee, other than a trust company acting as such, except insofar as the terms of the instrument or words creating or defining the trust specifically provide otherwise, or unless it is otherwise ordered by the court, which order may be made on an ex parte hearing, shall invest the funds of the trust only in the investments authorized in the cases of trust companies acting as trustees under section 406-22, and with respect to all investments and the security for the same every such trustee shall have and be subject to the same rights, powers, privileges, duties, obligations, and responsibilities as would apply to trust companies acting as trustees as to similar investments and the security for the same under section 406-22. Nothing in this section shall be deemed to authorize any trustee other than a trust company to issue participation certificates or notes. Any investment made by any such trustee under order by the court made on an ex parte hearing or otherwise may be held during the life of the trust or lesser period unless the terms of the instrument or words creating or defining the trust or the terms of the order of the court or of any subsequent order of the court specifically provide otherwise."

(37) (Reserved)

(38) (Reserved)

(39) Effective July 1, 1977, section 573-2 is amended to read:

"Sec. 573-2 Contracts. A married woman may make contracts, oral and written, sealed and unsealed, with persons other than her husband, in the same manner as if she were sole. A married woman and her husband may contract with each other, as follows:

- (1) By deed or assignment to or in favor of the other;
 - (2) By agreement settling their respective rights in property owned by them, or either of them, when the agreement is made in contemplation of divorce or judicial separation;
 - (3) By agreement providing for periodic payments for the support, and maintenance of one spouse by the other, or for the support, maintenance, and education of children of the parties, when the agreement is made in contemplation of divorce or judicial separation; provided that the agreement shall be subject to approval by the court in any subsequent proceeding for divorce or judicial separation and that future payments under an approved agreement shall nevertheless be subject to increase, decrease, or termination from time to time upon application and a showing of circumstances justifying a modification thereof;
 - (4) By partnership agreements for business purposes;
 - (5) As provided in section 2-204 of the Uniform Probate Code."
- (40) Section 573-3 is amended to read:

"Sec. 573-3 May be personal representative, guardian, trustee or other fiduciary. A married woman may be a personal representative, guardian, trustee, custodian, or other fiduciary and may bind herself and the estate she represents without any act or assent on the part of her husband."

(41) Effective July 1, 1977, section 577-14 is amended to read:

"Sec. 577-14 Illegitimate children; support. Except as otherwise provided by law, children whose parents have not been legally married, in contemplation of chapter 572, shall be denominated illegitimate; provided, that any person who in writing duly acknowledged before an officer authorized to take acknowledgments, declares himself to be the father of such children, shall be compellable to provide such children with necessary maintenance and support as if they were born in lawful wedlock, and to pay the expenses of the mother's pregnancy and confinement. The mothers in all cases shall be compellable to maintain and support them during their minority.

(42) Effective July 1, 1977, section 578-16 is amended to read:

"Sec. 578-16 Effect of adoption. A legally adopted child shall be considered to be a natural child of the whole blood of the adopting parent or parents as provided in the Uniform Probate Code, relating to the descent of property, and the former legal parent or parents of an adopted child and any other former legal relatives or next of kin shall not be considered to be related to the child as provided in the Uniform Probate Code; and for all other purposes an adopted child and his adopting parent or parents shall sustain towards each other the legal relationship of parents and child and shall have all the rights and be subject to all the duties of that relationship, the same as if the child were the natural child of the adopting parent or parents, and all such duties and rights as between the child and its former legal parent or parents shall cease from the time of the adoption; provided, that if the child is adopted by a person married to a legal parent of the child, the full reciprocal rights and duties which theretofore existed between the legal parent and the child, and the rights of inheritance as between the child and the legal parent and the legal relatives of the parent as provided in the Uniform Probate Code shall continue, notwithstanding the adoption, subject only to the rights acquired by and the duties imposed upon the adoptive parents by reason of the adoption. A child legally adopted under the laws of any state or territory of the United States or under laws of any nation shall be accorded the same rights and benefits in all respects as a child adopted under this chapter."

(43) Effective July 1, 1977, section 603-21.6 is amended to read:

"Sec. 603-21.6 Probate. The several circuit courts shall have power to grant probate of wills, to appoint personal representatives, to determine the heirs at law or devisees of deceased persons and to decree the distribution of decedents' estates, to appoint guardians of the property, to compel personal representatives and such guardians to perform their respective trusts and to account in all respects for the discharge of their official duties, to remove any personal representative or any such guardian and to do all other things as provided in the Uniform Probate Code.

(44) Section 603-36 is amended to read:

"Sec. 603-36 Actions and proceedings, where to be brought. Actions and

proceedings of a civil nature within the jurisdiction of the circuit courts shall be brought as follows:

- (1) Actions described in section 603-21.5(2) shall be brought in the circuit where it is alleged the penalty or forfeiture was incurred;
 - (2) Actions in the nature of ejectment or trespass quare clausum fregit or to quiet title to or partition real property shall be brought in the circuit in which the real property in question is situated; provided, that if the real property, partition of which is sought, lies in more than one circuit the action may be brought in any circuit in which the same or any part thereof is situated;
 - (3) Proceedings concerning trusts and the estates of decedents, missing persons, protected persons, minors, and incapacitated persons, shall be brought as prescribed by the Uniform Probate Code;
 - (4) Applications for writs directed to courts of inferior jurisdiction or for writs of quo warranto, shall be made in the circuit in which the alleged occasion for relief by any such writ arises; provided, that in case any such writ is necessary in the prosecution or furtherance of any action or proceeding already begun or pending before any circuit court, the court before which the action or proceeding has been begun or is pending may issue the writ even though the alleged occasion for relief arose in another circuit;
 - (5) Actions other than those specified above shall be brought in the circuit where the claim for relief arose or where the defendant is domiciled; provided if there is more than one defendant, then the action shall be brought in the circuit in which the claim for relief arose unless a majority of the defendants are domiciled in another circuit, whereupon the action may be brought in the circuit where the majority of the defendants are domiciled."
- (45) Effective July 1, 1977, section 607-5 is amended to read:

"Sec. 607-5 Costs, circuit courts. The fees prescribed by the below schedule shall be paid to the clerk of the circuit court as costs of court by the person instituting the action or proceeding, or offering the paper for filing, or causing the document to be issued or the services to be performed in the circuit court; provided that nothing in the schedule shall apply to cases of adults charged with commission of a crime, or to proceedings under section 571-11(1) or (2), or to proceedings under chapter 333 or 334, or to small estates (including decedents' estates and protection of property of minors and persons under disability) when the amount payable is fixed by another statute.

For the purpose of this section, "judgment" includes a decree and any order from which an appeal lies.

SCHEDULE

In the application of this schedule, each case assigned a new number or filed under the number previously assigned to a probate, trust, guardianship, or conservatorship, shall carry a fee for the institution or transfer of the action or proceeding as prescribed by part I, and in addition the fees prescribed by parts II and III unless otherwise provided.

PART I

Action or proceeding, general:

- | | |
|--|------|
| (1) Civil action or special proceeding, unless another item in this part I applies..... | \$30 |
| (2) Appeal to a circuit court | \$30 |
| (3) Transfer of action to circuit court from district court, in addition to district court fees..... | \$20 |

Trusts:

- | | |
|---|------------------------|
| (4) Proceeding for (A) appointment of trustee; (B) appointment of successor; (C) resignation of trustee; (D) instructions; (E) approval of investment; (F) approval of sale, mortgage, lease, or other disposition of property; (G) approval of compromise of claim, for each such matter | \$15 |
| (5) Proceeding for (A) removal of trustee; (B) order requiring accounting; (C) invalidation of action taken by trustee; (D) termination of trust for each such matter | \$15 |
| (6) Accounting, this fee to be paid for each account filed and to include the settlement of the account | \$10 |
| (7) Vesting order | no charge under part I |
| (8) Allowance of fees of trustees, attorneys, or other fees for services incurred in a proceeding for which a fee has been paid under this section..... | no charge under part I |
| (8a) Registration of a trust, or release of registration, under the Uniform Probate Code..... | \$3 |
| (9) Any other proceeding relating to a trust | \$15 |

Guardianship of estate on conservatorship:

- | | |
|--|------------------------|
| (10) Proceeding for (A) appointment; (B) appointment of successor; (C) resignation; (D) instructions, unless included in one of the foregoing proceedings (E), (F), (G) approval of any matter listed in (E), (F), or (G) of item (4) in relation to a trust, for each such matter | \$15 |
| (11) Proceeding of the nature listed in (A), (B), (C), or (D) of item (5) in relation to a trust, for each such matter | \$15 |
| (12) Accounting, same as provided by item (6) in relation to a trust .. | \$10 |
| (13) Any other proceeding relating to guardianship of an estate, or a conservatorship | no charge under part I |

Probate (decedents' estates). These fees include all matters of the nature listed in items (4) to (9), without additional charge:

- | | |
|---|------|
| (14) Application for appointment of special administrator by order of the court, in addition to fee prescribed by item (15) | \$10 |
| (15) Probate, administration, or ancillary administration, this fee to be paid once only for each decedent's estate | \$30 |
| (15a) Informal probate or appointment proceeding under the Uniform Probate Code, this fee to be paid instead of the fee prescribed by item (15) | \$10 |
| (15b) Application under the Uniform Probate Code for formal testacy proceedings, or for supervised administration, this fee to be paid once only for each decedent's estate as an addition to the fee prescribed by | |

ACT 200

item (15a) \$20
Family court cases:

- (16) Matrimonial action (annulment, divorce, separation, or separate maintenance) \$30
- (17) Adoption \$15
- (18) Guardianship of the person, including all matters of the nature listed in items (4) to (9) \$15
- (19) Termination of parental rights no charge under part I
- (20) Any other family court proceeding, including without limitation custody proceedings even if in the form of an habeas corpus proceeding \$15

PART II

The fees prescribed by this part do not apply to decedents' estates, guardianships, or conservatorships.

Intervention; affirmative relief:

- (21) Intervention \$15
- (22) Answer containing one or more cross-claims, cross-complaints, or counterclaims \$15
- (23) Third-party complaint \$15

Motions:

- (24) Motion or other application for: (A) preliminary injunction including temporary restraining order; (B) change of venue; (C) involuntary dismissal, or preliminary hearing of a defense which may lead to involuntary dismissal; (D) judgment on the pleadings; (E) summary judgment; (F) new trial; (G) vacating, altering, or amending judgment, for each such matter, provided that an application in the alternative shall be treated as one matter \$15

Wrts; garnishee summons. For the issuance of the following:

- (25) Garnishee summons \$10
- (26) Writ of possession, attachment, or execution \$10
- (27) Temporary restraining order or other injunction no charge except for the motion
- (28) Any other wrt \$10

PART III

The fees prescribed by this part apply without exception.

Jury trial:

- (29) Demand for jury trial, including without limitation probate cases, appeals to the circuit court, and cases transferred to the circuit court from the district court, this fee to be paid to the court in which the demand is filed by the party first making the demand \$50

Subpoena:

- (30) Issuance of a subpoena, for each witness to be served \$ 3

Deposition; examination:

- (31) Deposition upon oral examination or written questions, or physical or mental examination, or examination of judgment debtor or other per-

son under section 636-4, to be paid by the party filing the first paper in the matter, for each person whom the party seeks to question or examine	\$10
Miscellaneous:	
(32) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs	\$30
(33) Search of records by the clerk	\$ 2
(34) Making of copy; comparing of copy with original; certification or authentication of notaries	Fees prescribed by section 92-21
(35) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal	\$ 1
(36) Exemplification instead of item (35).....	\$ 2
(37) Filing of copy of notice of completion of contract, with affidavit of publication	\$ 3
(38) Filing of initial paper under section 507-43 by person asserting mechanic's or materialman's lien (this fee to be additional to the fee prescribed by part I for bringing an action under section 507-47)	\$15
(39) Filing of any other paper not in a pending proceeding	\$ 3
(40) Printing, publishing, or posting notice; service fees; garnishee fees; mileage charges; or other services actually performed	Amounts necessary to cover actual costs or disbursements."

(46) Effective July 1, 1977, section 607-18 is amended to read:

"Sec. 607-18 Fees and expenses of trustees. Upon all moneys and other property received in the nature of revenue or income of the estate, such as rents, interest, dividends, and general profits, trustees, except trustees of a charitable trust, shall be allowed as commissions payable out of the income received during each year, seven per cent for the first \$5,000 and five per cent for all over \$5,000 the commissions to be payable as and when the income is received, but not oftener than once a year.

Upon the principal of the estate, trustees shall be allowed as commissions one per cent on the value at the inception of the trust payable at the inception out of the principal, one per cent on the value of all or any part of the estate upon final distribution payable at the termination out of the principal, and two and one-half per cent upon all cash principal received after the inception of the trust and neither being nor representing the principal upon which the two and one-half per cent has previously at any time been charged, payable at the receipt out of the principal, and two and one-half per cent upon the final payment of any cash principal prior to the termination of the trust payable at the final payment out of the principal, and in addition thereto one-tenth of one per cent on the value at the expiration of each year during the continuance of the trust payable annually out of the principal; provided, that such one-tenth of one per cent on the principal shall not apply to trust estates created under a trust document which authorizes the trustees to employ others to perform bookkeeping and clerical services at the expense of the estate, unless first approved by the court, nor shall such one-tenth

ACT 200

of one per cent be allowed when such authority is granted by statute. For the purposes of this paragraph, the value of the estate shall be determined in such manner as the court may approve.

Such further allowances may be made as the court deems just and reasonable for services performed in connection with sales or leases of real estate, contested or litigated claims against the estate, the adjustment and payment of extensive or complicated estate or inheritance taxes, the preparation of estate and income tax returns, the carrying on of the decedent's business pursuant to an order of court or under the provisions of any will, litigation in regard to the property of the estate, and such other special services as may be necessary for the trustee to perform, prosecute, or defend. All contracts between a trustee and a beneficiary other than the creator of the trust, for higher compensation than is allowed in this section shall be void.

These provisions shall apply as well to future accounting in existing estates as to new estates."

(47) Effective July 1, 1977, section 607-19 is repealed.

(48) Effective July 1, 1977, section 607-21 is amended to read:

"Sec. 607-21 Expense of bond. Any receiver, assignee, guardian, trustee, committee, personal commissioner, or other fiduciary required by law or the order of any court to give a bond or other obligation as such, may include as a part of the lawful and chargeable expense of executing his trust such reasonable sum, paid a company authorized under the laws of the State to become surety on such bond or obligation, for becoming his surety thereon, as may be allowed by the court in which he is required to account, not exceeding one per cent a year on the amount of the bond."

(49) Effective July 1, 1977, section 656-1 is amended to read:

"Sec. 656-1 Certain contracts, when actionable. No action shall be brought and maintained in any of the following cases:

- (1) To charge an executor or administrator, upon any special promise to answer for damages out of his own estate;
- (2) To charge any person upon any special promise to answer for the debt, default, or misdoings of another;
- (3) To charge any person, upon an agreement made in consideration of marriage;
- (4) Upon any contract for the sale of lands, tenements, or hereditaments, or of any interest in or concerning them;
- (5) Upon any agreement that is not to be performed within one year from the making thereof;
- (6) To charge any person upon any agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or commission;
- (7) To charge the estate of any deceased person upon any agreement which by its terms is not to be performed during the lifetime of the promisor.

Unless the promise, contract, or agreement, upon which the action is brought, or some memorandum or note thereof, is in writing, and is signed by the party to be charged therewith, or by some person thereunto by him in writing lawfully authorized."

(50) Effective July 1, 1977, sections 657-16 and 657-17 are repealed.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring. In making the deletions allowed by this section, the revisor shall retain the amendments made by Section 3, Act 157, Session Laws of Hawaii 1975. It is not the intention of this Act to repeal or affect Act 157.*

SECTION 3. This Act shall take effect on July 1, 1976, except that Articles II, III, and IV and the Hawaii Revised Statutes amended or repealed in Article VIII on account of Article II, III, and IV shall take effect on July 1, 1977.

(Approved June 4, 1976.)

ACT 201

H.B. NO. 3248-76

A Bill for an Act Relating to Amendments to the Developmental Disabilities Law.

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

SECTION 1. Section 333E-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 333E-2 Developmental disabilities, definitions. For the purposes of this chapter, 'developmental disabilities' includes a disability of a person attributable to mental retardation, cerebral palsy, epilepsy, autism, or other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons, or is attributable to dyslexia resulting from such a disability, and which disability originates before such person attains age eighteen and which has continued or can be expected to continue indefinitely and which constitutes a substantial handicap to such person's ability to function normally in society."

SECTION 2. Section 333E-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 333E-3 State planning and advisory council on developmental disabilities. The state planning and advisory council on developmental disabilities (hereinafter referred to as the state council or the council) shall be placed in the Department of Health for administrative purposes only and assigned the following responsibilities:

(1) Planning. The state council shall:

(A) Develop, prepare, adopt, and periodically review and advise, as necessary, the state plan for developmentally disabled (hereinafter called the state plan) in conformance with federal substantive and

*Edited accordingly.

procedural requirements therefor. The state council shall transmit the state plan to the governor for approval, and upon approval shall be submitted to the federal government for appropriate approval. The state plan and revisions thereto shall be effective upon the governor's approval thereof. The state plan shall include establishment of goals and priorities of the State in meeting the needs of the developmentally disabled, including the establishment of priorities for the distribution of public funds for comprehensive services to the developmentally disabled within the State and other matters deemed necessary to achieve normalization of lives of the developmentally disabled. The state plan shall in addition provide for coordinated delivery and establishment of comprehensive services, facilities, and programs for the developmentally disabled.

- (B) Review, approve, and monitor implementation plans prepared and carried out by the various departments of the State in carrying out the state plan for the developmentally disabled.
- (C) Review, approve, and monitor any other state plans which affect services to the developmentally disabled.
- (2) Coordination of departments and private agencies. The council shall:
 - (A) Identify services duplicated by departments and private agencies and coordinate and assist in the elimination of unnecessary duplication.
 - (B) Encourage efficient and coordinated use of federal, state and private resources in the provision of services.
 - (C) Designate areas of responsibility for services to both public and private agencies serving developmentally disabled clients, reviewing such designations as necessary. Identify gaps in services to the developmentally disabled and coordinate responsibilities of various public or private agencies for such missing services.
 - (D) Insure that implementation planning by the various departments is effectively coordinated and that interdepartmental programs receive the full support of all departments involved.
- (3) Evaluation. The council shall:
 - (A) Monitor, evaluate and approve implementation plans of the various public and private agencies for the developmentally disabled.
 - (B) Monitor all ongoing projects relating to developmental disabilities of the various public and private agencies.
 - (C) Monitor decentralization of Waimano training school and hospital by insuring that each resident transferred from Waimano has an individualized program at least equal to that which he or she might be expected to receive at Waimano.
- (4) Advocacy. The council shall:
 - (A) Advocate for the needs of the developmentally disabled before the legislature and the public and to the governor.
 - (B) Act in an advisory capacity to the governor, the legislature, and all concerned department heads on all issues affecting the

- developmentally disabled.
- (C) Serve as a channel for complaints by consumers of services for the developmentally disabled, following up on such complaints and taking such action as may be warranted.
- (5) Report. The council shall:
- (A) Prepare and submit annual reports to the governor, the legislature, and all concerned department heads on the implementation of the state plan.
- (B) Prepare and submit to the United States Secretary of Health, Education and Welfare, through the governor, any periodic reports the Secretary may reasonably request.
- (C) Prepare other reports necessary to accomplish its duties under this chapter.
- (6) Rules. The council shall adopt, amend, and repeal rules under chapter 91, necessary for the implementation of this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 4, 1976.)

ACT 202

H.B. NO. 2691

A Bill for an Act Relating to Labor Education at the University of Hawaii.

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

SECTION 1. **Findings and Purpose.** ARTICLE XII of the Constitution of the State of Hawaii grants every worker in private and public employment, the right to organize for the purpose of collective bargaining. In accord therewith, a large portion of the labor force of this State belongs to and is represented by a variety of trade unions whose governance, administration, operations, and activities are to a large extent, regulated by a variety of state and federal laws, rules, regulations, and policies. The collective bargaining process, whether successful or unsuccessful, vitally affects the entire citizenry of our State. The contributions of organized labor to the improvement of the social, political, and economic well-being of our citizenry have been substantial.

The expressed need and desire for specialized education and training by workers and leaders of trade unions to improve their professional competence in order to effectively administer their affairs, to improve their ability to intervene wisely in shaping their environment on the job, in their unions, and in the community while commendable, has neither been adequately nor effectively addressed by educational institutions of the State. Moreover, the substantial contributions by organized labor to the improvement of the social, political, and

*Edited accordingly.

ACT 202

economic well-being of our citizenry is largely unknown by the public at large. It is urgent that the need for specialized labor education be provided by the University of Hawaii. This legislation is designed to enable the University to so provide.

SECTION 2. Part II of chapter 304, Hawaii Revised Statutes, is amended by adding a new subpart B to read as follows:

"B. CENTER FOR LABOR EDUCATION AND RESEARCH."

Sec. 304-34 Center for labor education and research. The center for labor-management education at the University of Hawaii, Manoa campus, is redesignated and established as the center for labor education and research. The center shall (1) provide labor education instruction, labor-related research and educational services for workers and their organizations; (2) provide labor-related education to the public; (3) advise and assist in the development and implementation of labor related instructional programs, courses, and activities for use within the department of education, including teacher preparation therefor; (4) advise and assist in the development and implementation of labor studies degree programs in the University of Hawaii system; and (5) be the clearinghouse for labor education matters in the State.

The center shall be located in and be a part of the college of continuing education and community services of the University of Hawaii, Manoa campus. The affairs and operations of the center shall be administered by a director appointed by and responsible to the dean of such college. The center shall utilize the smallest practicable permanent staff for its direction and operation and it shall draw on existing personnel within the state government insofar as possible for necessary supplementation. Where bona fide demands for programs and services exceed the capabilities of the permanent staff as supplemented, additional personnel resources may be acquired on a contract basis without regard to chapters 76 and 77. Permanent staff shall be covered by chapters 76 and 77, or section 304-13, as may be appropriate.

The center shall receive the full cooperation of all state agencies in the use of staff members, facilities, and other resources necessary to accomplish the purposes of this part.

Sec. 304-35 Functions and programs. In consultation with the labor education advisory council, the center shall (1) develop a systematic long-range labor education program for implementation during fiscal year 1976-77; (2) coordinate, arrange for, or conduct evaluation of existing center programs of instruction for refinement, develop new courses of instruction, and plan their implementation on a continuing basis; (3) coordinate, arrange for, or conduct instructional programs including classes, courses, workshops, seminars, and research studies or projects; (4) coordinate, arrange for, or provide technical assistance to trade unions to improve or implement labor education programs within their organizations; (5) prepare and disseminate educational information and publications on various subjects of concern and interest to workers and their organizations; (6) develop or acquire and promote the dissemination of labor related information and programs through the various public media (radio, TV, newspapers, public and private organizations, clubs, etc.); and (7) coordinate,

arrange for, or conduct teacher preparation classes to enable relevant and reliable department of education instruction in labor-related educational courses, programs and activities.

Sec. 304-36 Labor education advisory council. There is established a labor education advisory council, consisting of not more than fifteen members, broadly representative of the trade union movement in the State, who shall be appointed by the president of the university. The council shall be advisory to the dean of the college of continuing education and community service on all activities and programs of the center and shall assist the dean in the assessment and evaluation of program needs for implementation. Members of the council shall designate its chairman and shall serve without compensation; provided, however, that such actual traveling and other expenses incurred in the performance of their duties shall be advanced or reimbursed.

Sec. 304-37 Revolving fund. There shall be established a revolving fund to be known as the center for labor education and research revolving fund, for use by the director of the center with the approval of the dean of the college of continuing education and community services in carrying out the purposes of the center. All fees, charges, and other moneys collected in conjunction with the operations of the center shall be deposited in the revolving fund. Such amounts shall be expended from the fund by the director of the center as may be necessary to defray the cost of operating the center, excluding compensation of the permanent staff, but including contractual obligation, rentals, and such other program costs as approved by the dean."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum \$1, or so much thereof as may be necessary, to carry out the purposes of this Act, including but not limited to seven permanent positions to constitute the center's core staff.

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

(Approved June 7, 1976.)

ACT 203

H.B. NO. 2809-76

A Bill for an Act Relating to the Encouragement of Federally Licensed Small Business Investment Companies.

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

SECTION 1. The purpose of this Act is to encourage the formation and successful operation within the State of Hawaii of Small Business Investment Companies as defined by the federal Small Business Investment Act of 1958, as amended. It is recognized that the purpose of the Small Business Investment Act is "to improve and stimulate the national economy in general and the small business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available

ACT 203

in adequate supply". It is the intent of the legislature that this Act will benefit the economy of the State of Hawaii by furthering the growth of small business concerns and thereby providing increased employment opportunities for all the people of the State.

SECTION 2. Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 478- Small business investment companies; exempt. Small business investment companies shall be exempt from the provisions of this chapter. The maximum rate of interest charged by such small business investment companies on any loan shall be the maximum rate of interest permitted, without reference to state law, by the federal Small Business Administration pursuant to the Small Business Investment Act of 1958, as amended.

As used in this section "small business investment company" means a company approved by the federal Small Business Administration to operate under the provisions of the federal Small Business Investment Act of 1958 (72 U.S. Statutes at Large 689 et seq.; 15 U.S.C. 661 et seq.), as amended, and issued a license as provided thereunder."

SECTION 3. Chapter 241, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to section 241-1 to be appropriately inserted and to read as follows:

"Small business investment company" means a company approved by the federal Small Business Administration to operate under the provisions of the federal Small Business Investment Act of 1958 (72 U.S. Statutes at Large 689 et seq.; 15 U.S.C. 661 et seq.), as amended, and issued a license as provided thereunder."

2. Section 241-3 is amended to read as follows:

"Sec. 241-3 Imposition of tax on other banks, building and loan associations, industrial loan companies, financial corporations, and small business investment companies. Every bank, other than a national banking association, and every building and loan association, every industrial loan company, financial corporation, and small business investment company, located or doing business in the State, shall annually, as of January 1, pay a franchise tax measured as, and at the rate, provided in section 241-4."

SECTION 4. Section 235-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in sections 235-61 to 235-67 relating to withholding and collection of tax at source, and section 235-10 relating to "unrelated business taxable income", the following persons and organizations shall not be taxable under this chapter:

(I) Banks, building and loan associations, industrial loan companies, and small business investment companies taxable under chapter 241; and insurance companies and agricultural cooperative associations, exclusively taxable under other laws;

- (2) Corporations, companies, associations, or trusts conducted solely for charitable, religious, educational, or scientific purposes within the State, including fraternal beneficiary societies;
- (3) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries, no part of the net earnings of which inures to the financial benefit of any private shareholder or individual;
- (4) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (5) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes within the State;
- (6) Labor organizations;
- (7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholder;
- (8) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries, and which meets the requirements of the Internal Revenue Code for exemption from the tax thereby imposed."

SECTION 5. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) This chapter shall not apply to the following persons:
 - (1) Banks taxable under chapter 241;
 - (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
 - (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
 - (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
 - (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, or other benefits to the members of such societies, orders, or associations, and to their dependents;
 - (6) Corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the

Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965;

- (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare, and from which no profit inures to the benefit of any private stockholder or individual;
- (8) Hospitals, infirmaries, and sanitaria;
- (9) Cooperative associations now or hereafter incorporated under and pursuant to chapter 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that the exemption shall apply only to the gross income derived from its activities authorized by chapter 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);
- (10) Building and loan associations taxable under chapter 241;
- (11) Persons affected with leprosy and kokuas, with respect to business within the county of Kalawao;
- (12) Corporations, companies, associations, or trust organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided, that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
- (13) Industrial loan companies taxable under chapter 241, provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- (14) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by state funds;
- (15) Local development companies incorporated under the laws of the State and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended provided that the exemption shall apply only with respect to gross income derived as interest on loans made to borrowers from loan funds obtained from the Small Business Administration but only if the loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation;
- (16) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations;
- (17) Small business investment companies taxable under chapter 241; provided that the exemption shall apply only to the income derived from activities engaged in as provided by the federal Small Business

Investment Act of 1958, Public Law 699, as amended, provided further that the exemption shall not apply to consulting and advisory services engaged in under the first sentence of section 308(b) of Public Law 699."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 7. This Act shall take effect upon its approval; provided that sections 3 and 4 shall apply to taxable years beginning after December 31, 1975 and that section 5 shall take effect on July 1, 1976.

(Approved June 7, 1976.)

ACT 204

H.B. NO. 3196-76

A Bill for an Act Relating to the Use of Firearms in Certain Offenses.

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

SECTION 1. Findings and purpose. Recent statistics and studies indicate that the use of firearms in the commission of criminal activities has progressively increased to the point where a significant percentage of felony cases have involved the use of a firearm. Until strict firearms control laws become a reality, the high risk of injury to victims of criminal action will continue to exist. The legislature finds that alternative methods of discouraging the use of firearms such as stronger and more certain penalties should be instituted. It is the purpose of this Act in view of the increasing use of firearms in criminal actions to provide a deterrent effect against such use for the protection of the people in this State.

SECTION 2. Section 660, Chapter 6 of Act 9, Session Laws of Hawaii 1972 (Hawaii Penal Code) is amended to read as follows:

Sec. 660 Sentence of imprisonment for felony; ordinary terms. (a) A person who has been convicted of a felony may be sentenced to an indeterminate term of imprisonment except as provided for in section relating to the use of firearms in certain felony offenses. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

- (1) For a class A felony—20 years;
- (2) For a class B felony—10 years; and
- (3) For a class C felony—5 years.

The minimum length of imprisonment shall be determined by the board of paroles and pardons in accordance with section 669.

SECTION 3. Chapter 6 of Act 9, Session Laws of Hawaii 1972 (Hawaii Penal Code) is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. Sentence of imprisonment for use of a firearm in a felony. (a) A person convicted of a felony, where the person had a firearm in his possession and

*Edited accordingly.

ACT 205

threatened its use or used the firearm while engaged in the commission of the felony, may be sentenced to a mandatory term of imprisonment the length of which shall be as follows:

- (1) For a class A felony—up to 10 years; and
- (2) For a class B felony—up to 5 years.

The sentence of imprisonment for a felony involving the use of a firearm as provided in this subsection shall not be subject to the procedure for determining minimum term of imprisonment prescribed under section 669, provided further that a person who is imprisoned in a correctional institution as provided in this subsection shall become subject to the parole procedure as prescribed in section 670 only upon the expiration of the term of mandatory imprisonment fixed under section 660 (a) (1) or (2), herein.

(b) A person convicted of a second firearm felony offense as provided in section (a), herein, where the person had a firearm in his possession and threatened its use or used the firearm while engaged in the commission of the felony, shall be sentenced to a mandatory term of imprisonment the length of which shall be as follows:

- (1) For a class A felony—10 years; and
- (2) For a class B felony—10 years.

The sentence of imprisonment for a second felony offense involving the use of a firearm as provided in this subsection shall be exempted from the procedure for determining minimum term of imprisonment prescribed under section 669, provided further that a person who is imprisoned in a correctional institution as provided in this subsection shall become subject to the parole procedure as prescribed in section 670 only upon the expiration of the term of mandatory imprisonment fixed under section 660(b) (1) or (2), herein.

As used in this subsection, "firearm" has the meaning defined in section 134-1."

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect upon its approval and shall apply to all felonies committed after the effective date of this Act.

(Approved June 7, 1976.)

ACT 205

H.B. NO. 3299-76

A Bill for an Act Relating to Disaster Relief and Rehabilitation.

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

*Edited accordingly.

SECTION 1. Chapter 209, Hawaii Revised Statutes, is amended in the following ways:

1. By amending section 209-5 to read as follows:

"Sec. 209-5 Duties of coordinator. The rehabilitation coordinator shall:

- (1) Provide for the official contact between the State and persons affected by the disaster;
- (2) Make available to these persons information on all state rehabilitation programs;
- (3) Aid all persons affected by the disaster in securing assistance available under this chapter;
- (4) Inform these persons of assistance available from sources other than the State, and assist the victims in obtaining any assistance;
- (5) Keep a list of these persons, posting thereon all assistance received from the State, and to the extent that the information is available, assistance from other sources;
- (6) Advise the governor as to the administration and effectiveness of the various programs;
- (7) Establish a temporary office on the island affected by the disaster if necessary, and where more than one island is affected, establish such offices as the governor may direct; and
- (8) File an annual report with the governor and the legislature describing the organization, expenditures, and assistance granted, pursuant to this chapter and making recommendations to increase the effectiveness of this chapter at least twenty days before the convening of the regular session of the legislature."

2. By amending part III to read as follows:

"PART III. COMMERCIAL AND PERSONAL LOANS

Sec. 209-26 Administration. Except as otherwise provided, the director of planning and economic development is designated as the administrator responsible for the administration of this part. The director shall:

- (1) Administer loans for the purpose and according to this part; and
- (2) Promulgate rules and regulations to carry out the purposes of this part.

Sec. 209-27 Types of loans; participation. The director of planning and economic development may make two types of loans:

- (1) Loans in participation with private financial institutions to be known as participating loans; and
- (2) Loans wholly from state funds to be known as direct loans.

The director may negotiate contracts with private financial institutions upon reasonable terms for the participation of the institutions with the State in the making of loans pursuant to this part including but not limited to a term by which the financial institutions undertake to service the loan. Participation agreement shall provide that at least ten per cent of the total loan be comprised of funds from the private financial institution. The private financial institution's share of the disbursement of funds of any loan shall be the same percentage agreed upon for its participation in the total amount of that loan. No direct loan shall be made unless a participating loan cannot be negotiated at reasonable terms.

Sec. 209-28 Purpose of loans. (a) Commercial loans may be made for the following purposes: to purchase inventory, equipment, and machinery; to construct, repair, or restore buildings; to provide operating funds; and to refinance outstanding business loans on equipment and buildings; provided that the loans shall be used to rehabilitate the business of the disaster victim as nearly as possible to its predisaster level; and provided further that the loans shall not be used to begin a business substantially different from the one the disaster victim was engaged in before the state disaster. Business concerns which were non-owners of buildings before the state disaster shall not be precluded from obtaining building loans under this part.

(b) Personal loans may be made for the purpose of meeting necessary expenses or to satisfy serious needs of individuals and families which arose as an immediate and direct result of a disaster.

Sec. 209-29 Eligibility for loans. Loans may be made to individuals, partnerships, corporations, cooperatives, or other business associations, but only if the applicant:

- (1) Suffered loss of or damage to property in a rehabilitation area as a result of a state disaster;
- (2) For a commercial loan, had operated an industrial, manufacturing, processing, wholesaling, or retailing business, or professional or service business, or building rental business, immediately before the disaster;
- (3) Presents a suitable program for:
 - (A) Rehabilitation or re-establishment of his business to its predisaster level when applying for a commercial loan; or
 - (B) Meeting necessary expenses and satisfying the serious needs of himself and his family when applying for a personal loan;
- (4) Has reasonable ability to repay the loan; and
- (5) For a commercial loan, presents written evidence that the Small Business Administration had declined an application for financial assistance under the Small Business Administration Disaster Loan Program or has reduced the amount of the loan request; provided that the declination was not due to the applicant's having sufficient financial resources to rehabilitate himself; or
- (6) For a commercial loan, cannot secure any loans from the Small Business Administration Disaster Loan Program because the making of the loans is not covered by the program, and the director of planning and economic development is reasonably satisfied that the applicant is not able to secure loans from private lending institutions and does not have sufficient financial resources to rehabilitate himself.

Paragraph (6) shall be applied in the alternative with respect to paragraph (5) of this section.

Sec. 209-30 Terms. (a) No loan shall include any portion or item of loss covered by a contract of insurance or for which the applicant receives assistance from any other federal, state, or local program of disaster relief, and the amount of loans to any one applicant shall in no case exceed \$25,000 for a commercial loan and \$5,000 for a personal loan.

- (b) No loan shall be made for a term exceeding twenty years.
- (c) Each loan shall bear simple interest at the rate of five per cent a year for direct loans and the State's share of participating loans.
- (d) The commencement date for the repayment of the first installment on principal only for each loan may be deferred for a period of six months from the date of the loan.

Sec. 209-31 Security for loans. Security for any loan when not available is not required, however, whenever property other than personal property and inventory, is purchased with the loan funds, a mortgage or pledge of such property shall be required as security for the loan. The director of planning and economic development may, in his discretion, permit the mortgage or pledge to be subordinated to the lien of a financial institution or government lending agency in the event the subordination should become necessary for the borrower to secure additional funds.

Sec. 209-32 Conditions of loans. Every applicant who is granted a loan under the provisions of this part shall:

- (1) Expend the loan funds only for those purposes authorized by the director of planning and economic development;
- (2) Agree not to sell or otherwise dispose of mortgaged or pledged property except on written consent of the director, and except upon such conditions as the director may prescribe in writing;
- (3) Undertake to pay, when due, all taxes, liens, judgments, or assessments which may be lawfully assessed against the property mortgaged, together with the costs and expenses of any foreclosure of the mortgage; and
- (4) Keep insured to the satisfaction of the director all buildings and other insurable property covered by any mortgage.

Sec. 209-33 Default. If the applicant is in default of any term or condition in any loan agreement or mortgage or the provisions of this part, the unpaid balance of the loan, including interest, shall, at the option of the director of planning and economic development, become due and payable forthwith, and the director may foreclose any mortgage by any method provided by law.

Sec. 209-34 State disaster revolving loan fund. There is established the state disaster revolving loan fund into which shall be deposited all moneys received as repayment of loans and interest payments as provided in this part, and from which the director of planning and economic development may make loans in accordance with provisions of this part."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary, for the disaster revolving loan fund created in section 209-34, Hawaii Revised Statutes. The sum appropriated shall be expended by the department of planning and economic development for any disaster that occurred on or after December 31, 1975, and for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

ACT 206

brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1976.)

ACT 206

S.B. NO. 1821-76

A Bill for an Act Relating to the Prepaid Health Care Act.

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

SECTION 1. Section 393-13, Hawaii Revised Statutes, is amended to read:

"Sec. 393-13 Liability for payment of premium; withholding; recovery of premium. Unless an applicable collective bargaining agreement specifies differently every employer shall contribute at least one-half of the premium for the coverage required by this chapter and the employee shall contribute the balance; provided that in no case shall the employee contribute more than 1.5 per cent of his wages; and provided that if the amount of the employee's contribution is less than one-half of the premium, the employer shall be liable for the whole remaining portion of the premium.

The employer shall withhold the employee's share from his wages with respect to pay periods as specified by the director.

If an employee separates from his employment after his employer has prepaid the employee's share of the cost of providing health care coverage, the employer may deduct an amount not to exceed one-half of the premium cost but without regard to the 1.5 per cent limitation, from the last salary or wages due the employee, or seek other appropriate means to recover the premium."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 7, 1976.)

ACT 207

S.B. NO. 1899-76

A Bill for an Act Relating to the Establishment of an Office of Children and Youth.

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

SECTION 1. The legislature finds that securing the well-being of all of Hawaii's children should continue to be a policy concern of the highest order for state government. Hawaii has long been a leader among the states in the development of innovative undertakings in behalf of children and youth as evidenced, in part, by the enactment of Act 294, Session Laws of Hawaii 1949, which establish-

*Edited accordingly.

ed the Hawaii State Commission on Children and Youth, one of the first entities of its kind in the United States.

Several departments of the State are responsible for various services to children and youth. Lack of coordination among the services and planning activities of the various departments of the State results in gaps in the spectrum of needed services, duplication of services, lack of clarity and responsibility for services, and inadequately articulated inter-agency programs, thereby reducing the quality and effectiveness of programs for children and youth. Because of the specific mandates of the departments, it is essential that a body responsible for coordinating services and planning for children and youth be established outside the departments responsible for direct service delivery. In addition, there are indications that coordination of the State's programs and activities with the efforts of the several counties and the various agencies in the private sector is, likewise, less than adequate.

Therefore, the purpose of this Act is to develop a new office, the office of children and youth, within the office of the governor to replace the existing commission on children and youth and the office of youth affairs, office of information and youth affairs, of the office of the governor with the primary purposes of conducting research, ensuring coordination among and between programs and services, and assuring proper evaluation of programs and services relating to children and youth.

SECTION 2. The Hawaii Revised Statutes is amended by repealing chapter 581 and adding a new chapter 581 to read as follows:

“CHAPTER 581 OFFICE OF CHILDREN AND YOUTH

PART I. OFFICE, POWERS AND DUTIES

Sec. 581-1 Office of children and youth; appointments. (a) There is established within the office of the governor, an office of children and youth.

(b) The director of the office shall be known as the director of the office of children and youth, hereinafter referred to as director. The director shall have training and/or experience in the field of social work, education, public health, or other related fields; direct experience in programs and services related to children and youth; and experience in a supervisory, consultative, or administrative position. The director shall be appointed by the governor without regard to chapters 76 and 77. The salary of the director shall be set by the governor. The director shall be included in any benefit program generally applicable to the officers and employees of the State.

Sec. 581-2 General functions, duties, and powers of the director. The director shall have the following principal functions, duties, and powers:

- (1) Serve as the principal official in state government solely responsible for the coordination of programs and services in behalf of children and youth.

- (2) Oversee, supervise, and direct the performance by his or her subordinates of activities in such areas as planning, evaluation, and coordination of children and youth programs and development of a statewide service delivery network.
- (3) Assess the policies and practices of other agencies impacting on children and youth and conduct advocacy efforts in their behalf.
- (4) Advise the governor and the legislature on new legislation, programs, and policy initiatives and conduct such liaison as would be required to implement them.
- (5) Serve as a member of advisory boards and regulatory panels of state agencies in such areas as child development programs, social services programs, and health and medical assistance programs.
- (6) Administer funds allocated for the office of children and youth; and apply for, receive, and disburse grants and donations as may otherwise fall within the authority of the office of children and youth.
- (7) Serve as a referral agency for complaints of persons regarding services to children and youth, or operations of state and county agencies affecting children and youth, and investigate complaints.
- (8) Adopt, amend, and repeal rules pursuant to chapter 91 for purposes of this chapter.
- (9) Retain such staff as may be necessary for the purposes of this chapter, in conformity with chapters 76 and 77, except for the heads of the three divisions referred to in section 581-4 who shall not be subject to chapters 76 and 77.
- (10) Contract for such services as may be necessary for the purposes of this chapter.
- (11) On a continuing basis, provide initial and continuing orientation as to the goals, functions, and programs of the office to members of the council.
- (12) On a continuing basis, actively and enthusiastically seek the input of council members on all matters pertaining to the functions of the office.
- (13) On a continuing basis, transmit minutes of the council to the governor and to the chairpersons of the legislative committees responsible for children and youth programs.

Sec. 581-3 General duties of the office of children and youth. The office of children and youth shall:

- (1) Establish statewide goals and objectives relating to children and youth in the State.
- (2) Study the facts concerning the needs of children and youth in the State through adequate research studies, such research to be carried on whenever possible through the departments or agencies of the state and county governments responsible for providing services in the fields of health, education, social welfare, employment, and related services. Where such research cannot be done within such established agencies, it shall be carried out by this office.

- (3) Review legislation pertaining to children and youth and appropriations made for services in their behalf in such fields as health, child guidance, social service, education, recreation, child labor and juvenile delinquency and its prevention, and consider and present revisions and additions needed and report to the governor and to the legislature regarding such legislation.
- (4) Evaluate the availability, adequacy, and accessibility of all services for children and youth within the State.
- (5) Monitor and coordinate the operations and the operating policies, affecting children and youth, of all state and county departments and agencies responsible for providing services for children and youth, including, without limitation to the generality of the foregoing, the department of health, the department of social services and housing, the department of education and the department of labor and industrial relations, and report such facts and the office's recommendations to the governor and to the legislature. The executive heads of all such departments and agencies shall make available to the office of children and youth such information as the office deems necessary for the effective discharge of its duties under this chapter.
- (6) Maintain contacts with local state and federal officials and agencies concerned with planning for children and youth.
- (7) Encourage and foster local community action in behalf of children through the local county committees on children and youth.
- (8) Assist in promoting plans and programs for the prevention and control of juvenile delinquency.

Sec. 581-4 Administrative and program support for the office of children and youth. The provision of administrative and program support for the office of children and youth shall be accomplished by the creation of three principal organizational divisions in the office of children and youth. One division shall be known as the child development division, the second as the youth affairs division, and the third as the administrative and technical services division.

- (1) The child development division shall be engaged in the activities enumerated in section 581-3 with special attention to the needs of children from birth through age twelve.
- (2) The youth affairs division shall be engaged in the activities enumerated in section 581-3 with special attention to the needs of youths from ages thirteen through twenty-four.
- (3) The administrative and technical services division shall be engaged in the following activities, including but not limited to:
 - (A) Preparation and submission of budgetary requests for the office of children and youth.
 - (B) Management of contracts and agreements entered into by the office of children and youth with public and private vendors, consultants, and suppliers.
 - (C) General administrative housekeeping functions of the office of children and youth.

PART II. ADVISORY COUNCIL FOR CHILDREN AND YOUTH

Sec. 581-11 Advisory council for children and youth, established. There is established within the office of children and youth, the advisory council for children and youth herein referred to as council except as otherwise indicated.

Sec. 581-12 Council, composition, chairperson. The council shall be composed of nineteen members appointed by the governor subject to section 26-34, except as provided in this section. Members shall have had training, experience, or special knowledge concerning programs for children and youth.

Of the nineteen members:

- (1) Five shall be ex officio voting members to consist of the director of social services, the chairperson of the board of education, the director of labor and industrial relations, the director of health, and the senior judge of the family court of the first circuit.
- (2) Fourteen shall be regular members:
 - (A) One public officer from each of the counties of Hawaii, Maui, Oahu, and Kauai to be appointed from a list of four such officials submitted by the mayor of each county.
 - (B) Four members shall be representatives of private organizations which are engaged in the planning or delivery of services to children or youth.
 - (C) Six members shall be citizens, four of whom shall be under the age of twenty-six at the time of appointment. Of such members, there shall be one representative from each county who shall be nominated by the mayor for gubernatorial appointment.

Appointments to the council shall be on a staggered basis.

Sec. 581-13 Council, compensation. Members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

Sec. 581-14 Ex officio members, attendance by, substitute for. If for any reason any ex officio member is not able to attend meetings of the council, the individual immediately subordinate to such member and authorized to act in his or her place shall attend in the stead of the ex officio member. The substitute individual shall be entitled to participate in all actions and business of the council with all rights, authority, and privileges of the appointed member, including full voting rights.

PART III. COUNCIL FUNCTIONS

Sec. 581-21 Council, functions. (a) The council shall participate in, recommend, and advise the director in coordinating, planning, and monitoring functions of the office of children and youth delineated in this chapter. The council shall generally work towards the establishment and effectuation of a cohesive, comprehensive system for the development and delivery of programs and services for children and youth on a statewide basis.

(b) The governor may appoint additional members or modify the composition of the advisory council should such modification be required to comply with

federal regulations for purposes related to eligibility for federal funds. Should the governor be required to effect such modification, he shall propose an amendment to the legislature for its review and action at the regular session next following the modification.

Sec. 581-22 Council, duties. The council shall have the following powers, duties, and responsibilities:

- (1) Serve in an advisory capacity to the director, the governor, and the legislature on matters relating to programs and services for children and youth.
- (2) Assist the director in determining program and policy needs and priorities for the State in establishing and implementing a comprehensive program for children and youth in accordance with the goals and objectives expressed in this chapter.
- (3) Assist the director in formulating short-term and long-range goals for programs and services for children and youth.
- (4) Assist the director in consulting with and seeking the opinion of the general public in relation to a comprehensive system of programs and services for children and youth.
- (5) Assist the director in the evaluation of general and specific policies relating to the needs of children and youth.
- (6) Assist the director in encouraging both public and private agencies and programs to work toward the development and maintenance of a comprehensive and coordinated system for children and youth services.
- (7) Carry out other functions, duties, and responsibilities of an advisory nature reasonably related to the coordination, evaluation, and conducting of research on children and youth programs and services.

PART IV. RELATIONSHIP WITH OTHER DEPARTMENTS AND AGENCIES; COOPERATION WITH OFFICE OF CHILDREN AND YOUTH

Sec. 581-31 Relationships with other departments and agencies and cooperation with office of children and youth. It shall be the duty and responsibility of every state department and county agency providing programs and services to children and youth, to actively work toward the goals and objectives established by the office of children and youth and to coordinate with the office on children and youth the development of its programs plans. The executive heads of all such departments and agencies shall cooperate with the office of children and youth in providing information as the office deems necessary for the effective discharge of its duties. However, nothing contained in this chapter shall be deemed to delegate or detract in any way from the functions, powers, and duties prescribed by law for any other department or agency of this State, nor to interrupt or preclude the direct relationships of any such department or agency or units of county government in the performance of such functions, powers, and duties. Notwithstanding that each county shall maintain maximum control over the development and administration of children and youth programs tailored to meet county needs, each department, agency officer, and employee of the State and of the counties shall cooperate and assist the office of children and youth in

the performance of the function, powers, and duties of the office.

Sec. 581-32 Joint agreement of cooperation. The advisory council for children and youth and the juvenile justice coordinating council, when established, shall draw up a formal agreement of cooperation which shall define the roles, responsibilities, and workable division of labor relating to children and youth between both bodies. The joint agreement of cooperation and any revision thereof shall be submitted for legislative review and approval; provided that the original agreement shall be submitted no later than twenty days prior to the convening of the regular session of 1977."

SECTION 3. All functions and programs of the commission on children and youth and the youth affairs office of the office of information and youth affairs are transferred to the office of children and youth. All state officers, employees of the commission on children and youth and the youth affairs office of the office of information and youth affairs, and the members of the commission on children and youth shall serve until the appointment of the director of the office of children and youth and a majority of the members of the advisory council for children and youth.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee shall be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Although the office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the office or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

The preceding paragraphs of this section to the contrary notwithstanding, the director of the office of children and youth may retain such employees of the commission on children and youth as he desires.

All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the commission on children and youth or the youth affairs office of the office of information and youth affairs relating to the functions transferred to the office of children and youth shall be transferred with the functions to which they relate to the office of children and youth.

SECTION 4. In the event the office of children and youth is created, all legislative appropriations which have been made for the commission on children and youth and the youth affairs office of the office of information and youth affairs and other funds which are otherwise transferable shall be transferred to the office of children and youth to coincide with the effective date of the creation of the office of children and youth.

SECTION 5. All funds previously appropriated to the commission on children and youth and the youth affairs office of the office of information and youth affairs are transferred to and shall be expended by the office of children and youth.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect on July 1, 1976.

(Approved June 7, 1976.)

ACT 208

H.B. NO. 2237-76

A Bill for an Act Relating to Income Tax.

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

SECTION 1. Section 235-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Without regard to source in the State” shall mean income derived or earned from all sources whether from sources located within or from sources located without the State.”

SECTION 2. Section 235-55.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Tax credit schedule. Each taxpayer may claim tax credits in the amount indicated for each adjusted gross income bracket as shown in the schedule below multiplied by the number of qualified exemptions to which he is entitled; provided each taxpayer sixty-five years of age or over may claim double the tax credit.

Excise Tax Credit Schedule

Adjusted Gross Income	Tax Credit
Under \$5,000	40
\$ 5,000 under \$ 6,000	32
6,000 under 7,000	28
7,000 under 8,000	26
8,000 under 9,000	22
9,000 under 10,000	20
10,000 under 11,000	17
11,000 under 12,000	14
12,000 under 13,000	11
13,000 under 14,000	8
14,000 under 20,000	6

*Edited accordingly.

ACT 209

(c) Qualified exemption defined. For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that a person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemption shall not be granted because of deficiencies in vision or hearing, or other disability."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1975.

(Approved June 7, 1976.)

ACT 209

H.B. NO. 2299-76

A Bill for an Act Relating to Mechanic's and Materialman's Liens.

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

SECTION 1. The purpose of this Act is to clarify Section 507-49, Hawaii Revised Statutes, as amended by Act 113, Session Laws of Hawaii 1974. Although Section 507-49 was further amended by Act 181, Session Laws of Hawaii 1975, such amendments did not affect the uncertainty which this Act serves to remedy. The legislature, by Act 113, among other things, intended to deny lien rights to contractors required to be licensed under chapter 444, Hawaii Revised Statutes, but who are not so licensed. However, the statute as presently worded may be construed, and has been by at least one court, as denying lien rights to persons who may be general contractors as defined in chapter 507, Hawaii Revised Statutes, and who are exempt from the licensing requirements of that section, e.g., professional engineers and architects. The effect of such an interpretation is to deny lien rights to persons who are not licensed under chapter 444 but who are properly licensed under other appropriate laws. This Act amends section 507-49 to make clear that lien rights are denied only to contractors required to be licensed under chapter 444 and not so licensed and that lien rights are not denied to persons who may meet the definition of a general contractor under chapter 507 but who are exempt from the licensing requirements of chapter 444.

SECTION 2. Section 507-49, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 507-49 Exceptions. (a) Anything contained in this part to the contrary notwithstanding, in connection with any repairs or improvements made or performed on property which before the repairs or improvements was used primarily for dwelling purposes, no lien shall exist either for the furnishing of

*Edited accordingly.

materials to a general contractor as defined in this chapter or his subcontractor either of whom was required to be licensed but was not licensed pursuant to chapter 444 or if unreasonable advancement of credit was given by the furnisher of materials to the general contractor or subcontractor whether such person is licensed, unlicensed or exempted under chapter 444.

The issue of reasonable advancement of credit shall be decided by the circuit judge at the return day hearing provided for in section 507-43(c); provided that if a party affected by the lien does not appear at the return day hearing, he may raise the issue of unreasonable advancement of credit at any time prior to the entry of a final or interlocutory decree of foreclosure in the proceeding brought to enforce the lien under section 507-47. For the purposes of this section, if the furnisher of materials has secured a credit application form from the general contractor or the subcontractor to whom the materials were furnished or has reasonably inquired into the credit status of the general contractor or subcontractor, the advancement of credit by the furnisher of materials shall be *prima facie* reasonable.

The credit application referred to herein shall be current and shall include at least the following information:

- A. For all persons:
 - 1. Name
 - 2. Address
 - 3. Type of business (Example—plumbing subcontractor)
 - 4. Date business started
 - 5. Contractor's license number
 - 6. Bonding companies generally used
 - 7. Banks used
 - 8. List of current creditors
 - 9. Balance sheet
 - 10. Total of all outstanding construction contracts \$____
 - 11. Incompleted portion of all contracts \$____

B. In addition, for corporate accounts:

- 1. Names of officers
- 2. Authorized capital
- 3. Paid in capital

C. In addition, for noncorporate accounts:

- 1. Names of partners, co-venturers, etc.

(b) Anything contained in this chapter to the contrary notwithstanding, no general contractor as defined in this chapter or his subcontractor or the subcontractor's subcontractor who is required to be licensed pursuant to chapter 444, shall have lien rights unless such contractor was licensed pursuant to chapter 444 when the improvements to the real property were made or performed, and no subcontractor or subcontractor's subcontractor so licensed shall have lien rights if his work was subcontracted to him by a general contractor as defined in this chapter or his subcontractor who was required to be licensed but was not licensed pursuant to chapter 444."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the

ACT 210

brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1976.)

ACT 210

H.B. NO. 2617-76

A Bill for an Act Relating to Electricians and Plumbers.

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

SECTION 1. Section 448E-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 448E-9 Unlicensed activity. (a) No person shall act or assume to act as a journeyman electrician, journeyman specialty electrician, supervising electrician, supervising specialty electrician, motion picture operator, journeyman plumber, master plumber or maintenance electrician without a license previously obtained in compliance with this chapter and the rules and regulations of the board.

(b) An apprentice or trainee learning the trade of a person licensed under this chapter shall not be required to have a license if he acts under the supervision of a person appropriately licensed under this chapter.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1976.)

ACT 211

H.B. NO. 2949-76

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 359-51, Hawaii Revised Statutes, is amended by amending the definition of "elderly person" to read as follows:

"Elderly person" means a person who is a bona fide resident of the State and who either:

- (1) Has attained the age of 62; or
- (2) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long, continued, and indefinite duration; or
- (3) Has a physical impairment expected to be of long, continued and indefinite duration which substantially impedes his ability to live independently and which could be improved by more suitable housing conditions."

*Edited accordingly.

SECTION 2. Section 359-121, Hawaii Revised Statutes, is amended to read:

"Sec. 359-121 Rent supplements. The Hawaii housing authority is authorized to make, and contract to make, annual payments to a "housing owner" on behalf of a "qualified tenant", as those terms are defined herein, in such amounts and under such circumstances as are prescribed in or pursuant to this part. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. No payment on behalf of a qualified tenant shall exceed a segregated amount of \$70 a month; provided that payments on behalf of elderly persons as defined in section 359-51 shall not exceed a segregated amount of \$90 a month."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1976.)

ACT 212

H.B. NO. 3126-76

A Bill for an Act Amending Chapter 92, Hawaii Revised Statutes, Relating to Public Agency Meetings and Records.

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

SECTION 1. Section 92-2, Hawaii Revised Statutes, is amended to read:

"Sec. 92-2 Definitions. As used in this part:

- (1) "Board" means any agency, board, commission, authority, or committee of the State or, its political subdivisions which is created by constitution, statute, rule, or executive order, to have supervision, control, jurisdiction or advisory power over specific matters and which is required to conduct meetings and to take official actions.
- (2) "Chance meeting" means a social or informal assemblage of two or more members at which matters relating to official business are not discussed.
- (3) "Meeting" means the convening of a board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power."

SECTION 2. Section 92-7, Hawaii Revised Statutes, is amended to read:

"Sec. 92-7 Notice. (a) The board shall give written public notice of any regular, special or rescheduled meeting. The notice shall include an agenda which lists all of the items to be considered at the forthcoming meeting, the date, time and place of the meeting.

*Edited accordingly.

(b) The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection, at least seventy-two hours before the meeting. The notice shall also be posted at the site of the meeting whenever feasible. No board shall change the agenda, once filed, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled, provided that no item shall be added to the agenda in the manner provided herein if it is of reasonably major importance and action thereon by the board will affect a significant number of persons.

(c) The board shall maintain a list of names and addresses of persons who request notification of meetings and shall mail a copy of the notice to such persons at their last recorded address no later than the time the agenda is filed under subsection (b)."

SECTION 3. Section 92-21, Hawaii Revised Statutes, is amended to read:

"Sec. 92-21 Copies of records; other costs and fees. Except as otherwise provided by law, a copy of any public document or record, including any map, plan, diagram, photograph, or photostat, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the reasonable cost of reproducing such copy, which amount shall not be less than 25 cents per page, sheet, or fraction thereof. Such reproduction cost shall include, but shall not be limited to, labor cost for search and actual time for reproducing, material cost, including electricity cost, equipment cost, including rental cost, cost for certification, and other related costs. All such fees shall be paid in by the public officer receiving or collecting the same to the state director of finance or county director of finance or to the agency or department by which the officer is employed as government realizations."

SECTION 4. Section 92-51, Hawaii Revised Statutes, is amended to read:

"Sec. 92-51 Public records; available for inspection. All public records shall be available for inspection by any person during established office hours unless public inspection of such records is in violation of any other state or federal law, provided that, except where such records are open under any rule of court, the attorney general and the responsible attorneys of the various counties may determine which records in their offices may be withheld from public inspection when such records pertain to the preparation of the prosecution or defense of any action or proceeding, prior to its commencement, to which the State or county is or may be a party, or when such records do not relate to a matter in violation of law and are deemed necessary for the protection of a character or reputation of any person."

SECTION 5. Chapter 92, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 92- Political subdivision of the State; applicability. The provisions contained in this chapter shall apply to all political subdivisions of the State. Provided, however, in the event that any political subdivision of the State shall provide by charter, ordinance or otherwise, more stringent requirements relating to mandating the openness of meetings, the more stringent provisions of said

charter, ordinance, or otherwise, shall apply."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 7. This Act shall take effect on July 1, 1976.

(Approved June 7, 1976.)

ACT 213

H.B. NO. 3280-76

A Bill for an Act Relating to Franchises.

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

SECTION 1. The legislature finds that gasoline dealers are in an unequal bargaining position when dealing with petroleum distributors. Act 133, Session Laws of Hawaii 1975, was designed to afford protection to gasoline dealers from arbitrary and unreasonable termination of franchises. The purpose of this Act is to provide further protection to gasoline dealers who deal in petroleum products under franchises with petroleum dealers.

SECTION 2. Chapter 486H, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"Sec. 486H- Gasoline dealer's rights. (a) A petroleum distributor shall not in any way dictate, force, or attempt to set the retail price of any product sold by the gasoline dealer.

(b) After the effective date of this Act it shall be illegal for any petroleum distributor by any action to require a gasoline dealer to purchase only those tires, batteries, and other automotive accessories sold by the distributor. A gasoline dealer may sell any tires, batteries, and other automotive accessories as may be available to him for retail sale.

Sec. 486H- Petroleum distributor's penalty; collection. The petroleum distributor's executive officer, representative, or agent who negotiates any contract in violation of section 486H- or who otherwise coerces a gasoline dealer in violation of section 486H- shall in addition to other penalties provided by this chapter be subject to a civil penalty of up to \$50,000 for each offense.

The penalty shall be assessed and recovered in a civil action brought by the attorney general or by any county attorney or prosecuting attorney in any court of competent jurisdiction. If brought by a county attorney or prosecuting attorney, the entire amount of the penalty shall be paid to the general fund of the county in which the judgment was entered. If brought by the attorney general, one-half of the penalty shall be paid to the county general fund where the action was brought and one-half shall be paid to the State general fund.

Sec. 486H- Right to sue. Any person who is injured in his business or property by reason of a violation of section 486H- may sue in any court having

*Edited accordingly.

ACT 214

jurisdiction in the county where the defendant resides or is found, or where any agent of the defendant resides or is found, or where service may be obtained, without respect to the amount in controversy, to recover the damages sustained by him, and he shall be awarded, if judgment is rendered in his favor, attorney's fees together with the costs of the suit. Any action brought pursuant to this section shall be commenced within four years after the cause of action accrued.

Sec. 486H- Disposition of inventory. Upon termination of a franchise by either the petroleum distributor or the gasoline dealer, whether or not for cause, the distributor shall at the request of the dealer, take back any inventory from the dealer which was supplied by it and which has not diminished substantially in value and is of similar quality as when originally supplied. The petroleum distributor shall reimburse the gasoline dealer for not less than ninety per cent of the cost paid by the gasoline dealer or shall cancel not less than ninety per cent of any debts owed on account of the inventory."

SECTION 3. Section 486H-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Inventory” means any product sold to a gasoline dealer for resale purposes by a petroleum distributor.”

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1976.)

ACT 214

H.B. NO. 2256-76

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 514-26, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 514-26 Insurance. (a) The board of directors shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, exterior glass, floors, and ceilings against loss or damage by fire and such other hazards (including flood insurance under the provisions of the federal Flood Disaster Protection Act of 1973, if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) sufficient to provide for the repair or replacement thereof in the event of such loss or damages. The insurance coverage shall be written on the property in the name of the board of directors of the association of apartment owners, as trustee for each of the apartment owners in proportion to their respective common interests. Premiums shall be common expenses. Provision for the insurance

*Edited accordingly.

shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

(b) Any insurance policy providing the coverage required by subsection (a) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors with a written summary, in layman's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 7, 1976.)

ACT 215

H.B. NO. 2893-76

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 514-46, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 514-46 Penalties. (a) Any person who, in any respect, violates or fails to comply with any of the provisions set forth in sections 514-21, 514-29 to 514-52, and 514-55 or who in any other respect violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the real estate commission under sections 514-21, 514-29 to 514-52, and 514-55 is guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding one year, or both.

(b) Any person who violates any provision of this chapter or the rules of the real estate commission adopted pursuant thereto shall also be subject to a civil penalty not exceeding \$2,500, for any violation. Each violation shall constitute a separate offense and the collection of the fine shall be by suit brought by the attorney general on behalf of the real estate commission."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 7, 1976.)

ACT 216

H.B. NO. 3108-76

A Bill for an Act Relating to Horizontal Property Regimes.

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

*Edited accordingly.

ACT 217

SECTION 1. Section 514-52, Hawaii Revised Statutes, is amended to read:

"Sec. 514-52 Supplemental regulations governing a horizontal property regime. Whenever they deem it proper, the real estate commission, the county councils of the various counties or the city council of the city and county of Honolulu may adopt supplemental rules and regulations governing a horizontal property regime established under this chapter in order to implement this program; provided that any of the supplemental rules and regulations adopted shall not conflict with this chapter or with any of the rules and regulations promulgated by the real estate commission to implement this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 7, 1976.)

ACT 217

H.B. NO. 62

A Bill for an Act Relating to Elderly Affairs.

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

SECTION 1. Findings and declaration of necessity. The legislature finds that:

The State of Hawaii, perhaps more than any other jurisdiction in the United States, has been in the forefront in the enactment of legislation designed to assist the elderly. More than a decade ago, the state legislature enacted Act 198, Session Laws of Hawaii 1963, which created the state commission on aging and correspondingly county committees on aging to advise and assist all levels of government in the formulation and implementation of programs to meet the specific needs and requirements of Hawaii's elderly population. Act 198 preceded the passage by the Congress of the Older Americans Act of 1965 which provided federal financial support for state and local elderly program planning and development.

In support of its commitment to make the lives of the elderly more secure and enduring, the legislature enacted Act 261, in 1965. This Act marked the formal recognition of Hawaii's elderly population, including articulation of the State's goal, duty, and responsibility to its aged people. Briefly stated, the declared goal of the State of Hawaii is "...in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our State are entitled to, and it is the joint and several duty and responsibility of the State of Hawaii and its counties to enable our older people to secure equal opportunity to the full and free enjoyment of..." and adequate income in retirement, the best possible physical and mental health,

*Edited accordingly.

suitable housing, full restorative services for those who require institutional care, opportunity for employment with no discriminatory personnel practices because of age, pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities and freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

Still other manifestations of the legislature's concern and support for the elderly are evidenced by its authorization in 1969 of the establishment of the Hawaii State senior center, the enactment of Act 198, Session Laws of Hawaii 1972, which mandated the development of adult day care centers and the enactment of Act 225, Session Laws of Hawaii 1974, which mandated the state commission on aging to develop and implement a comprehensive master plan for the elderly.

To help oversee the development of the master plan, a senate interim committee on elderly affairs was formed. In its report, the committee determined that the dissatisfaction and problems associated with the current delivery of programs and services to the elderly can be attributed primarily to the fragmented fashion in which projects have been established, funded, and operated. Gordon Associates, Inc., in their report "comprehensive master plan for the elderly", December 15, 1974, confirmed the finding of the senate committee noting that "The examination of current service delivery capabilities in Hawaii for service programs for the elderly presents a picture of a system operating in contradiction to itself. In the jargon of the analyst, there is no comprehensive, coordinated, and integrated delivery system for the elderly. There are a number of competing public and private agencies that have more finite managerial control over the development and implementation of service programs that impact on the elderly than either the commission on aging or local area agencies despite the latters' mandate for informal clearance and review of all elderly program matters. This condition deprives the State of any effective administrative and planning function that could effectively integrate service delivery functions."

The present fragmentation of service delivery functions at both the State and local levels can be eliminated by assigning a clear responsibility to independent agencies at both levels. This coordinated system of management and organization will be empowered to act on behalf of individual elderly persons before the courts, administrative bodies of state and local governments, and in seeking required changes before legislative bodies. The elderly themselves will have a stake in directing the service delivery system to meet their needs through participation as majority members on either the state level policy advisory board for elderly affairs or the county level policy council for elderly affairs.

SECTION 2. The Hawaii Revised Statutes is amended by repealing chapter 349 and adding a new chapter 349 to read as follows:

"CHAPTER 349 EXECUTIVE OFFICE ON AGING

Sec. 349-1 Declaration of purpose; support; duties. (a) The legislature hereby declares that, in keeping with the traditional American concept of the

inherent dignity of the individual in our democratic society, the older people of our State are entitled to, and it is the joint and several duty and responsibility of the State of Hawaii and its counties to enable our older people to secure equal opportunity to the full and free enjoyment of the following:

- (1) An adequate income in retirement in accordance with the American standard of living.
 - (2) The best possible physical and mental health which science can make available, without regard to economic status.
 - (3) Suitable housing, independently selected, designed, and located with reference to special needs and available at costs which older citizens can afford.
 - (4) Full restorative services for those who require institutional care.
 - (5) Opportunity for employment with no discriminatory personnel practices because of age.
 - (6) Retirement in health, honor, and dignity.
 - (7) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.
 - (8) Efficient community services which provide social assistance in a co-ordinated manner and which are readily available when needed.
 - (9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.
 - (10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.
- (b) In support of the declaration of purpose in subsection (a), it shall be the policy of the State of Hawaii and its counties to:
- (1) Make available comprehensive programs which include a full range of health, education, and social services to our older residents who need them;
 - (2) Give full and special consideration to older residents with special needs in planning such programs; and, pending the availability of such programs for all older residents, give priority to the elderly with the greatest economic and social need;
 - (3) Provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older residents, and where applicable, also furnish meaningful employment opportunities for individuals, including older persons from the community; and
 - (4) Insure that the planning and operation of such programs will be undertaken as a partnership of older residents, the at-large community, and the State and its counties with appropriate assistance from the federal government.
- (c) It shall be the duty and responsibility of every state department and county agency providing programs and services to the elderly to actively work toward the goals articulated in subsections (a) and (b) and to employ the State's policy as included in the state master plan for the elderly in the planning and implementation of their individual programs.

Sec. 349-2 Executive office on aging; appointments. (a) There is established within the office of the governor, an executive office on aging.

(b) The head of this office shall be known as the director of the executive office on aging, hereinafter referred to as director. The director shall have professional training in the field of social work, education, public health, and other related fields; extensive direct experience in programs or services related to the elderly; and recent experience in a supervisory, consultative, or administrative position. The director shall be nominated and appointed by the governor without regard to chapters 76 and 77. The salary of the director shall be \$32,500 annually, effective July 1, 1976, and \$37,500 annually, effective January 1, 1977. The director shall be included in any benefit program generally applicable to the officers and employees of the State.

Sec. 349-3 General functions, duties, and powers of the director. The director shall have the following principal functions, duties, and powers:

- (1) Serve as the principal official in state government solely responsible for the performance, development, and control of programs, policies, and activities on behalf of the elderly;
- (2) Oversee, supervise, and direct the performance by his subordinates of activities in such areas as planning, evaluation, and coordination of elderly programs and development of a statewide service delivery network;
- (3) Assess the policies and practices of other agencies impacting on the elderly and conduct advocacy efforts for the elderly;
- (4) Advise the governor on new legislation, programs, and policy initiatives and conduct such liaison as would be required to implement them;
- (5) Serve as a member of advisory boards and regulatory panels of state agencies in such areas as income maintenance, public employment, retirement systems, certification of health care facilities and programs, social service and medical assistance, and housing and employment, among others;
- (6) Administer funds allocated for the executive office on aging; and apply for, receive, and disburse grants and donations from all sources for elderly programs and services;
- (7) Establish a clearinghouse for complaints of persons regarding services to the elderly, or operations of state and county agencies affecting the elderly, investigate the complaints, and refer the complaints and his findings to the appropriate agency for corrective action;
- (8) Adopt, amend, and repeal rules pursuant to chapter 91 for the purposes of this chapter;
- (9) Employ and retain such staff as may be necessary for the purposes of this chapter, in conformity with chapters 76 and 77; and
- (10) Contract for or grant such services as may be necessary for the purposes of this chapter, including master contract with other state agencies receiving federal and state funds for programs and services for the aging, and purchase of service agreements with appropriate agencies.

Sec. 349-4 Policy advisory board for elderly affairs. There shall be a policy advisory board for elderly affairs, appointed by the governor under section 26-34

to assist the director in his policy deliberations. The board shall consist of not less than twenty-one nor more than twenty-seven members, a majority of whom are over sixty years of age and who shall be selected on the basis of their interests and knowledge in and their ability to make contributions to the solution of problems relating to aging, and shall include at least one member from the county of Hawaii, one member from the county of Maui, one member from the county of Kauai, and one member from the city and county of Honolulu. There shall be seven members who shall serve as ex officio nonvoting members and shall be chosen from among the heads of state agencies which provide services or programs affecting the elderly, including but not limited to the following departments or agencies: health, social services and housing, education, labor and industrial relations, University of Hawaii, transportation, the state retirement system, the office of consumer protection, and, by invitation, the Hawaii representative of the United States Department of Health, Education and Welfare. Of the non ex officio members, one-third of the members shall be appointed for the term of four years, one-third for the term of three years, and one-third for the term of two years; and thereafter the terms of office of each member shall be four years. The members shall serve without compensation, but shall be paid their necessary expenses in attending meetings and carrying out the responsibilities of the board. The chairman shall be elected annually from the nongovernmental voting members of the board. There shall be not less than twelve meetings of the board each year.

Sec. 349-5 Administrative and program support for the executive office on aging. (a) The provision of administrative and program support for the executive office on aging shall be accomplished by the creation of two principal organizational divisions in the executive office on aging. One division shall be known as the planning and administrative services division and the other shall be known as the community assistance and program management division.

(b) The planning and administrative services division shall engage in the following activities, including but not limited to:

- (1) Preparation and submission of programs and budgets;
- (2) Preparation of an annual evaluation report on elderly programs for the governor and legislature;
- (3) Preparation of studies and analysis;
- (4) Maintenance of personnel records;
- (5) Management of contracts and agreements entered into by the executive office on aging with public and private vendors, consultants, and suppliers;
- (6) Monitoring the purchase of service agreements with public and private agencies and rendering technical assistance to elderly program service providers; and
- (7) Establishment and maintenance of reimbursement systems for services provided by agreement with federal, state, and county agencies, as well as private groups.

(c) The community assistance and program management division shall engage in the following activities, including but not limited to:

- (1) Legislative research and development as well as liaison on state and federal legislative matters;
- (2) Conducting public affairs programs on elderly affairs programs, projects, and needs;
- (3) Development and implementation of educational, recreational, and cultural programs for elderly persons;
- (4) Provision of technical assistance and liaison with community groups, organizations, and independent programs of benefit to the elderly;
- (5) Development and implementation of active programs of consumer protection and pre-retirement counseling;
- (6) Establishment of a statewide information and referral system, and an annual inventory of elderly programs and service agencies;
- (7) Technical assistance and liaison for the purpose of establishing elderly-controlled local service delivery systems providing comprehensive services and employment opportunities for the elderly throughout the State; and
- (8) Development and management of federally funded programs and special projects under the Federal Older Americans Act and other federal sources.

Sec. 349-6 State master plan for the elderly. The executive office on aging shall be responsible for the continued development, implementation, and continuous updating of a comprehensive master plan for the elderly which shall include, but not be limited to, the following:

- (1) Compilation of basic demographic data on the elderly in the State;
- (2) Identification of the physical, sociological, psychological, and economic needs of the elderly in the State;
- (3) Establishment of immediate and long-range goals pursuant to programs and services for the elderly in the State;
- (4) Establishment of priorities for program implementation and of alternatives for program implementation; and
- (5) Organization of administrative and program structure, including the use of facilities and personnel.

The state master plan for the elderly shall be developed in accordance with the requirements of the executive budget act.

Sec. 349-7 Recognition as responsible state agency. The executive office on aging shall be the single state agency responsible for programs affecting senior citizens of this State; provided that those programs affecting senior citizens now operated by other departments or agencies shall not be transferred to the executive office on aging except by executive order of the governor.

Sec. 349-8 Powers of other departments and agencies; cooperation with the executive office on aging. It shall be the duty and responsibility of every state department and county agency providing programs and services to the aging, in actively working toward the goals and objectives articulated in the state comprehensive master plan for the elderly, to coordinate with the executive office on aging the development of its program plans and clear its final plans with the office prior to implementation of such plans. The executive heads of all such

departments and agencies shall cooperate with the executive office on aging in providing information as the office deems necessary for the effective discharge of its duties under sections 349-3, 349-5, 349-6, and 349-7. However, nothing contained in this chapter shall be deemed to delegate or detract in any way from the functions, powers, and duties prescribed by law for any other department or agency of this State, nor to interrupt or preclude the direct relationships of any such department or agency or units of county government in the performance of such functions, powers, and duties. Each department, agency, officer, and employee of the State and of the counties shall cooperate and assist the executive office on aging in the performance of the function, powers, and duties of the office.

Sec. 349-9 County level agencies and organizations for the elderly. (a) To balance the organizational changes at the state level and to ensure maximum home rule powers to the counties, the mayors of each county shall:

- (1) Establish county offices of elderly affairs, with executive or cabinet status, to plan and develop, receive, and disburse grants and donations from all sources for programs of elderly services and to assist the state executive office on aging in carrying out its functions, powers, and duties, provided that:
 - (A) The offices shall be headed by a director appointed by the mayor; and
 - (B) The directors shall be advised by the county level policy council for elderly affairs;
- (2) Appoint, with the consent of the county councils, a fifteen-member policy council for elderly affairs, a majority of whom are sixty years of age or older and who have exhibited an interest in elderly affairs through active participation in senior citizens' activities or programs. At least five members of each policy council shall be members of state or county agencies which provide services or programs affecting the elderly. The duties of each policy council shall include the authority to review and approve the actions of the county executive offices on aging, subject to veto by the mayor on hiring of staff, approval of program budgets, contracts, grants, service delivery plans, and applications for and acceptance of grants from any source; and
- (b) The mayors of each county may encourage the formation of elder service corporations, county level consumer-controlled nonprofit service delivery corporations. Each elder service corporation shall have a board of directors appointed by the mayor with the consent of the county council. The board shall hire an executive director and other staff to provide basic direct services in a defined local area. Accordingly, there may be one or more elder service corporations for each county depending upon the demand, service needs, and the distribution of the elderly population as well as the feasibility of meeting these requirements. The county level executive offices on aging shall provide support services such as planning, administration, and program development.

Sec. 349-10 Annual senior citizen's fair. Each county policy council for elderly affairs may hold an annual senior citizen's fair in its respective county.

The council shall be responsible for the planning, organizing, and coordinating of the fair in every respect. The state policy advisory board for elderly affairs may assist the policy council in any aspect upon the request of such council. Proceeds earned from this fair are deemed to be proceeds earned from casual sales as defined in chapter 237. The council shall distribute such proceeds to the various senior citizen organizations and individuals who participate in the fair in accordance with appropriate methods of distribution as determined by the council."

SECTION 3. All functions and programs of the state commission on aging are transferred to the executive office on aging created by this Act. All functions and programs of the county committees on aging are transferred to the county offices and county councils.

All state officers, employees, and the present state commission on aging shall serve until the appointment of the director of the executive office on aging and a majority of the members of the state policy advisory board. All officers, employees and the county committees on aging shall serve until the establishment of the county offices and county policy councils.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided, that the officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided, that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided, that such officer or employee possesses the minimum qualifications for the position to which he is transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 4. All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the state or county commission relating to the functions transferred to the executive office on aging, the county offices, or policy councils shall be transferred with the functions to which they relate.

SECTION 5. There is appropriated out of the general revenues of the

ACT 218

State of Hawaii the sum of \$40,600 or so much thereof as may be necessary, to be expended by the office of the governor for the purposes of this Act.

SECTION 6. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

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

(Approved June 8, 1976.)

ACT 218

H.B. NO. 2023-76

A Bill for an Act Relating to the Deduction of Expenses for Household and Dependent Care.

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

SECTION 1. The purpose of this Act is to adopt federal income tax provisions which allow for the deduction of household and dependent care expenses incurred for employment purposes. In summary and without limiting the provisions of the public laws adopted, the Act allows such expenses to be deducted if they are incurred for a dependent of the taxpayer under fifteen and for a dependent or spouse who is physically or mentally incapable of caring for himself. The expense deduction is allowed if the claimant is employed. Expenses are allowed in an amount up to \$200 for one person, \$300 for two persons, and \$400 for three or more persons. Expenses are allowed in the preceding amounts for persons with an income of less than \$35,000. For persons with an income over \$35,000, the expenses incurred are reduced by a portion of one-half of the adjusted gross income over \$35,000.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"Sec. 235-2.1 Internal Revenue Code, further amendments adopted. For each taxable year specified in column 1 below the Internal Revenue Code meant is the Internal Revenue Code of 1954 as amended as of June 7, 1957 and as further amended by the acts of Congress, or portions thereof, enumerated in column 2 (section numbers in column 2 are inclusive). Amendments to the Code not enumerated in section 235-2 or herein shall not be operative for the purposes of this chapter unless specifically adopted.

Column 1	Column 2
Taxable years beginning on or after January 1, 1976	Public Law 92-178, Section 210(a) Public Law 94-12, Section 206."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor need not include the underscoring.*

*Edited accordingly.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1975.

(Approved June 9, 1976.)

ACT 219

H.B. NO. 2700-76

A Bill for an Act Relating to Medical Professional Liability.

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

SECTION 1. **Legislative findings and purposes.** (a) The legislature finds that:

- (1) The national crisis in the area of medical malpractice affects Hawaii to the potential disadvantage of all recipients of health care;
 - (2) There is only one insurance carrier that is actively providing medical malpractice coverage in the State;
 - (3) Premium rates for medical malpractice insurance have increased substantially and are expected to continue to increase under existing conditions, both for physicians and surgeons and for hospitals; and
 - (4) Act 161, Session Laws of Hawaii 1975, was enacted as a temporary means to become effective in the event that no insurance carrier would provide medical malpractice insurance coverage in the State, and insurance provided under such joint underwriting plan would be subject to the cost pressures that have led to the existing increasingly high premium rates.
- (b) The purposes of this Act are to:
- (1) Stabilize the medical malpractice insurance situation by reintroducing some principles of predictability and spreading of risk;
 - (2) Decrease the costs of the legal system and improve the efficiency of its procedures to the end that awards are more rationally connected to actual damages;
 - (3) Impose appropriate sanctions on errant health care providers, recognizing the integral role in this process played by the licensing system; and
 - (4) Provide and improve the machinery for resolving patient grievances against health care providers by the addition of lay members to the board of medical examiners, the hiring of additional staff for the board, increasing the reporting requirements to the board, and changing the method of appointments to the board.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**“CHAPTER
MEDICAL TORTS**

PART I. GENERAL PROVISIONS

Sec. **-1 Definitions.** As used in this chapter:

- (1) "Health care provider" means a physician or surgeon licensed under the laws of the State, a health care facility as defined in section 323D-41(4), and its employees. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of such institution or service.
- (2) "Medical tort" means professional negligence, the rendering of professional service without informed consent, or an error or omission in professional practice, by a health care provider, which proximately causes death, injury, or other damage to a patient.

Sec. -2 Attorney's contingent fees arrangements. In any action for medical tort in which the plaintiff's attorney and the plaintiff agree that the attorney is to be paid a fee only if the plaintiff recovers damages, payment to the attorney shall be limited to an amount not in excess of:

- (1) 33 1/3 per cent of the amount recovered if the claim is settled prior to the filing of the statement of readiness for trial; or
- (2) 40 per cent of any amount recovered after the statement of readiness for trial is filed to the time judgment is rendered by the trial court.

Such limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment.

Sec. -3 Informed consent; board of medical examiners standards. (a) In any action for medical tort based on an incident that occurred after January 1, 1977, based on the rendering of professional service without informed consent, evidence may be introduced that the health care provider complied with standards established by the board of medical examiners governing the information required to be given by or at the direction of the health care provider to a patient, or the patient's guardian in the case of a patient who is not competent to give informed consent.

(b) The board of medical examiners shall, insofar as practicable, establish reasonable standards of medical practice, applicable to specific treatment and surgical procedures, for the substantive content of the information required to be given and the manner in which it is given and in which consent is received in order to constitute informed consent from a patient or a patient's guardian. The standards shall include provisions which are designed to reasonably inform and to be understandable by a patient or a patient's guardian of the probable risks and effects of the proposed treatment or surgical procedure, and of the probable risks of not receiving the proposed treatment or surgical procedure. The standards established by the board shall be *prima facie* evidence of the standards of care required but may be rebutted by either party.

(c) Nothing in this section shall require informed consent from a patient or a patient's guardian when emergency treatment or emergency surgical procedure is rendered by a health care provider and the obtaining of consent is not reasonably feasible under the circumstances without adversely affecting the condition of the patient's health.

Sec. -4 "Ad damnum" clause prohibited. (a) No complaint, counterclaim, or cross-claim in an action for medical tort shall specify the

amount of damages prayed for but shall contain a prayer for general relief, including a statement that the amount of damages is within the minimum jurisdictional limits of the court in which the action is brought.

(b) In any such medical tort action, the party against whom the complaint, counterclaim, or cross-claim is made may at any time request a statement setting forth the nature and amount of the damages sought. The request shall be served upon the complainant, counterclaim, or cross-claimant who shall serve a responsible statement as to the damages within fifteen days thereafter. In the event a response is not served, the requesting party may petition the court with notice to the other parties, to order the appropriate party to serve a responsive statement.

(c) If no request is made for a statement setting forth the nature and amount of damages sought, the complainant, counterclaimant, or cross-claimant, as the case may be, shall give notice to the other of the amount of special and general damages sought to be recovered, either before a default may be taken, or in the event an answer is filed, at least sixty days prior to the date set for trial.

Sec. -5 Reporting and reviewing medical tort claims. (a) Every self-insured health care provider, and every insurer providing professional liability insurance for a health care provider, shall report to the insurance commissioner the following information about any medical tort claim, known to the self-insured health care provider or insurer, that has been settled, arbitrated, or adjudicated to final judgment within ten working days following such disposition:

- (1) The name and last known business and residential addresses of each plaintiff or claimant, whether or not each recovered anything;
- (2) The name and last known business and residential addresses of each health care provider who was claimed or alleged to have committed a medical tort, whether or not each was a named defendant and whether or not any recovery was had against each;
- (3) The name of the court in which any medical tort action, or any part thereof, was filed and the docket number;
- (4) A brief description or summary of the facts upon which each claim was based, including the date of occurrence;
- (5) The name and last known business and residential addresses of each attorney for any party to the settlement, arbitration, or adjudication, and identification of the party represented by each attorney;
- (6) Funds expended for defense and plaintiff costs;
- (7) The date and amount of each settlement, arbitration award, or judgment in any matter subject to this subsection.
- (8) Actual dollar amount of award received by the injured party.

(b) The insurance commissioner shall forward the name of every health care provider, except a hospital, against whom a settlement is made, an arbitration award is made, or judgment is rendered to the appropriate board of professional registration and examination for review of the fitness of the health care provider to practice his profession.

(c) A failure on the part of any self-insured health care provider to report as requested by this section shall be grounds for disciplinary action by the board of

medical examiners or the state health planning agency. A violation by an insurer shall be grounds for suspension of its certificate of authority.

Sec. -6 Administration of chapter. The director of regulatory agencies shall be responsible for the implementation and administration of this chapter and shall adopt rules, in conformity with chapter 91, necessary for the purposes of this chapter.

PART II. MEDICAL CLAIM CONCILIATION

Sec. -11 Medical claim conciliation panels; composition, selection, compensation. (a) There are established medical claim conciliation panels which shall review and render findings and advisory opinions on the issues of liability and damages in medical tort claims against health care providers.

(b) Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one active trial attorney licensed to practice in the courts of the State, and one physician or surgeon licensed to practice under the law of the State. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of twenty-five attorneys submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of twenty-five physicians or surgeons submitted annually by the board of medical examiners. Each member of the panel shall serve on the panel for a period of one month to hear and decide all claims brought before the panel within that month; provided that a member of the panel who has demonstrated a high degree of effectiveness in finding facts or in conciliating claims brought before the panel may be reappointed to the panel for additional months.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall serve voluntarily and without compensation, but shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of regulatory agencies.

The office and meeting space, secretarial and clerical assistance, office equipment and office supplies for the panel shall be furnished by the department of regulatory agencies.

The board of medical examiners shall prepare a list of physicians and surgeons along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid by the department of regulatory agencies.

Sec. -12 Review by panel required; notice; presentation of claims. Effective July 1, 1976, any person or his representative claiming that a medical tort has been committed shall submit the claim to the medical claim conciliation panel before a suit based on the claim may be commenced in any court of this State. Claims shall be submitted to the medical claim conciliation panel orally or

in writing on forms provided by the panel. If the claim is presented orally, the panel shall reduce the claim to writing. The claimant shall set forth facts upon which the claim is based and shall include the names of all parties against whom the claim is or may be made who are then known to the claimant. Within five business days thereafter the panel shall give notice of the claim, by certified mail, to all health care providers and others who are or may be parties to the claim and shall furnish copies of written claims to such persons. Such notice shall set forth a date, not more than twenty days after mailing the notice, within which any health care provider against whom a claim is made may file a written response to the claim, and a date and time, not less than five days following the last date for filing a response, for hearing of the panel. Such notice shall describe the nature and purpose of the panel's proceedings and shall designate the place of the meeting. The times originally set forth in the notice may be enlarged by the chairperson, on due notice to all parties, for good cause.

Sec. -13 Medical claim conciliation panel hearing; fact-finding; evidence; voluntary settlement. Every claim of a medical tort shall be heard by the medical claim conciliation panel within thirty days after the last date for filing a response. No persons other than the panel, witnesses and consultants called by the panel, and the persons listed in section -14 shall be present except with the permission of the chairperson. The panel may, in its discretion, conduct an inquiry of a party, witness or consultant without the presence of any or all parties.

The hearing shall be informal. Chapters 91 and 92 shall not apply. The panel may require a stenographic record of all or part of its proceedings for the use of the panel, but such record shall not be made available to the parties. The panel may receive any oral or documentary evidence. Questioning of parties, witnesses and consultants shall be conducted by the panel, but the panel may, in its discretion, permit any party, or any counsel for a party to question other parties, witnesses or consultants.

The panel shall have the power to require by subpoena the appearance and testimony of witnesses and the production of documentary evidence. The testimony of witnesses may be taken either orally before the panel or by deposition. In cases of refusal to obey a subpoena issued by the panel, the panel may invoke the aid of any circuit court in the State, which may issue an order requiring compliance with the subpoena. Failure to obey such order may be punished by the court as a contempt thereof. Any member of the panel may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence. Notwithstanding such powers, the panel shall attempt to secure the voluntary appearance, testimony, and cooperation of parties, witnesses and consultants without coercion.

At the hearing of the panel and in arriving at its opinion the panel shall consider, but not be limited to, statements or testimony of witnesses, hospital and medical records, nurses' notes, x-rays and other records kept in the usual course of the practice of the health care provider without the necessity for other identification or authentication, statement of fact or opinion on a subject contained in a published treatise, periodical, book or pamphlet, or statements of experts without the necessity of the experts appearing at the hearing. The panel may upon the application of any party or upon its own decision appoint as a consul-

tant, an impartial and qualified physician or surgeon or other professional person or expert to testify before the panel or to conduct any necessary professional or expert examination of the claimant or relevant evidentiary matter and to report to or testify as a witness thereto. Such a consultant shall not be compensated or reimbursed except for travel and living expenses to be paid as provided in section -11. Discovery by the parties shall not be allowed.

During the hearing and at any time prior to the rendition of an advisory decision pursuant to section -15, the panel may encourage the parties to settle or otherwise dispose of the case voluntarily.

Sec. -14 Same; persons attending hearings of panel. Unless excluded or excused by the panel, the following persons shall attend hearings before the panel:

- (1) The party or parties making the claim;
- (2) The health care provider or providers against whom the claim is made or representatives thereof, other than counsel, authorized to act for such health care provider or providers;
- (3) Counsel for the parties, if any, and
- (4) A representative of each health care provider's liability insurance carrier authorized to act for such carrier.

Sec. -15 Same, decisions. (a) Within fifteen days after the completion of a hearing, the medical claim conciliation panel shall file a written advisory decision with the insurance commissioner who shall thereupon mail copies to all parties concerned, their counsel, and the representative of each health care provider's liability insurance carrier authorized to act for such carrier, and the board of medical examiners. The panel shall decide the issue of liability and shall state its conclusions in substantially the following language: "We find the health care provider was actionably negligent in his or her care and treatment of the patient and we, therefore, find for the claimant"; or "We find the health care provider was not actionably negligent in his or her care and treatment of the patient and we, therefore, find for the health care provider".

(b) After a finding of liability, the medical claim conciliation panel shall decide the amount of damages, if any, which should be awarded in the case. The decision as to damages shall include in simple, concise terms a division as to which portion of the damages recommended are attributable to economic losses and which to non-economic losses; provided the panel may not recommend punitive damages.

(c) The decisions shall be signed by all members of the medical claim conciliation panel; provided that any member of the panel may file a written concurring or dissenting opinion.

(d) The advisory decision required by this section need not be filed if the claim is settled or otherwise disposed of before the decision is written or filed.

Sec. -16 Subsequent litigation; excluded evidence. The claimant may institute litigation based upon the claim in an appropriate court only after a party to a medical claim conciliation panel hearing rejects the decision of the panel.

No statement made in the course of the hearing of the medical claim conciliation panel shall be admissible in evidence either as an admission, to

impeach the credibility of a witness, or for any other purpose in any trial of the action, provided that such statements may be admissible for the purpose of section -19, hereof. No decision, conclusion, finding, or recommendation of the medical claim conciliation panel on the issue of liability or on the issue of damages shall be admitted into evidence in any subsequent trial, nor shall any party to the medical claim conciliation panel hearing, or the counsel or other representative of such party, refer or comment thereon in an opening statement, an argument, or at any other time, to the court or jury, provided that such decision, conclusion, finding, or recommendation may be admissible for the purpose of section -19, hereof.

Sec. -17 Immunity of panel members from liability. No member of a medical claim conciliation panel shall be liable in damages for libel, slander, or other defamation of character of any party to medical claim conciliation panel proceeding for any action taken or any decision, conclusion, finding, or recommendation made by the member while acting within his or her capacity as a member of a medical claim conciliation panel under this Act.

Sec. -18 Statute of limitations tolled. The filing of the claim with the medical claim conciliation panel shall toll any applicable statute of limitations, and any such statute of limitations shall remain tolled until sixty days after the date the decision of the panel is mailed or delivered to the parties.

Sec. -19 Duty to cooperate; assessment of costs and fees. It shall be the duty of every person who files a claim with the medical claim conciliation panel, every health care provider against whom such claim is made, and every insurance carrier or other person providing medical tort liability insurance for such health care provider, to cooperate with the medical claim conciliation panel for the purpose of achieving a prompt, fair and just disposition or settlement of such claim, provided that such cooperation shall not prejudice the substantive rights of said persons.

After trial of such claim or after settlement of such claim after suit has been filed, any party may apply to the court in which the suit was brought to have the costs of the action assessed against any party or any insurance carrier or other person providing medical tort liability insurance to a party health care provider, or both, for failure to cooperate with the medical claim conciliation panel. The court may award such costs, or a portion thereof, including attorney's fees, witness fees, including those of expert witnesses, costs of discovery and transcribing depositions, and court costs to the party applying therefor.

On application of the director of regulatory agencies, the court may award as a civil penalty against any party or any insurance carrier or other person providing medical tort liability insurance to a party health care provider, or all or any combination of such persons, all or a portion of the costs and expenses of the medical claim conciliation panel attributable to a claim involving such persons, if the court finds that such person or persons failed to cooperate with the medical claim conciliation panel. Such penalty shall be payable to the general fund.

In determining whether any person has failed to cooperate in good faith, the court shall consider, but is not limited to, the following:

- (1) The attendance of the persons at the hearing of the medical claim

- conciliation panel;
- (2) The extent to which representatives of parties and counsel representing parties came to panel hearings with knowledge of the claims and defenses and authority to negotiate a settlement or other disposition of the claim;
 - (3) The testimony of members of the panel as to the facts of the person's participation in the panel hearing;
 - (4) The extent of the person's cooperation in providing the panel with documents and testimony called for by the panel;
 - (5) The reasons advanced by the person so charged for not fully cooperating or negotiating.

Sec. -20 Annual report. The director of regulatory agencies shall prepare and submit to the legislature annually, twenty days prior to the convening of each regular session, a report containing his evaluation of the operation and effects of this chapter. The report shall include a summary of the claims brought before the medical claim conciliation panel and the disposition of such claims, a description and summary of the work of the panel under this chapter, an appraisal of the effectiveness of this chapter in securing prompt and fair disposition of medical tort claims, a review of the number and outcomes of claims brought under section -12 and recommendations for changes, modifications or repeal of this chapter or parts thereof with accompanying reasons and data.

PART III. PATIENTS' COMPENSATION FUND

Sec. -31 Establishment of patients' compensation fund. (a) Effective September 1, 1976, there is established in the department of regulatory agencies, separate and apart from all other moneys or funds, a patient's compensation fund, hereinafter referred to as the "fund", which shall be collected, received, and administered by the insurance commissioner and held by him in trust exclusively for the purposes of this part. The fund may sue and be sued under its name. All amounts received and earned shall be paid into the fund and all claims payable shall be paid from the fund. The fund shall be the exclusive agency through which medical malpractice insurance in excess of \$100,000 may be written in the state for health care providers as defined in section -1.

The fund shall consist of:

- (1) An annual surcharge levied on every insured health care provider in Hawaii. The surcharge shall be determined by the insurance commissioner based upon actuarial principles and shall be levied in terms of a stated percentage of the annual premium cost to each health care provider for medical malpractice insurance. The surcharge shall be collected, on the same basis as premiums, by each insurer or surplus lines agent and paid over to the insurance commissioner;
- (2) A reasonable annual amount, levied on every self insured health care provider in Hawaii. The amount shall be determined by the insurance commissioner and shall be comparable to that paid by an insured health care provider of the same risk category. The amount shall be paid by the self insured health care provider to the insurance commissioner;

(3) Any loan from the state general funds as provided by section -37; and

(4) Interest earned on any money in the fund.

(b) If on January 31 of any year, the amount of money in the fund exceeds the sum of \$5,000,000 after payment of all claims and expenses and accumulation of appropriate, unencumbered loss reserves in an amount determined by the insurance commissioner, the insurance commissioner shall reduce or waive the surcharges provided for in this section in order to maintain the fund at an approximate level of \$5,000,000.

(c) The insurance commissioner shall set the amounts payable to the fund and times of payment under subsection (a)(1) and (2) so that the fund shall reach the sum of \$5,000,000 by September 1, 1981.

Sec. -32 Payment of claims from the patients' compensation fund.

(a) The insurance commissioner shall pay an amount from the fund to a claimant for damages on account of a medical tort when and to the extent a final judgment, a binding arbitration award, or a settlement of the medical tort or alleged medical tort is in excess of \$100,000 and the judgment award or settlement is against a health provider who was a participant in the patients' compensation fund at the time the medical tort or alleged medical tort occurred.

(b) All claims from the patients' compensation fund shall be paid on or before the end of each calendar quarter, but in no event later than the succeeding January 15. At the end of each calendar quarter, the insurance commissioner shall determine if the fund is in danger of being exhausted. If such determination is made, the amount paid to each claimant of all claims allowed thereafter shall be prorated. Any amounts due and unpaid shall be paid in the following calendar year.

(c) Expenditures of moneys in the fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All benefits shall be paid from the fund upon vouchers approved by the insurance commissioner.

Sec. -33 Insurance commissioner approval of payment from the fund.

The insurance commissioner shall approve payment of a claim from the fund upon receipt of:

- (1) A certified copy of a final judgment in excess of \$100,000 for a claimant against a health care provider; or
- (2) A certified copy of a binding arbitration award in excess of \$100,000 for a claimant against a health care provider; or
- (3) A certified copy of a settlement in excess of \$100,000 for a claimant against a health care provider.

Sec. -34 Management of fund. The insurance commissioner shall be the treasurer and custodian of the fund. All moneys in the fund shall be held in trust for the purposes of this part only and shall not be expended, released, or appropriated or otherwise disposed of for any other purpose. Moneys in the fund may be deposited as provided in chapter 38 but such moneys shall not be commingled with other state funds and shall be maintained in separate accounts on the books of the depository. Such moneys shall be secured by the depository to

the same extent and in the same manner as required by the general depository law of the state; and collateral pledged to secure other funds of the state.

All expenses of collecting, protecting, and administering the fund shall be paid from the fund.

The insurance commissioner shall invest such moneys in the fund as are in excess of the amount deemed necessary for the payment of claims from the fund for a reasonable future period in investments authorized for insurers under sections 431-281 to 431-311; provided that the investments 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 claims.

Sec. -35 Powers of insurance commissioner. (a) Every insurer providing medical malpractice insurance to a health care provider defined in section -1 and every self-insured health care provider shall report to the insurance commissioner within ten working days any claim filed against a health care provider and shall make supplemental reports as required by the insurance commissioner. The reports shall not be subject to chapter 92.

(b) For any court action or arbitration action on a medical tort, the insurance commissioner may contract with an attorney to take action in the name of the health care provider if he finds such action is necessary to protect the interest of the fund.

(c) Settlement of a medical tort claim which may result in a recovery from the fund shall be made only with the agreement of the insurance commissioner.

(d) The insurance commissioner may employ, without regard to chapter 76 and 77, or contract for the services of professional staff without regard to section 103-3 to carry out the responsibilities of this part. Compensation for such services shall be paid from the fund.

(e) If the plaintiff in a medical tort claim offers in writing to settle at a sum of \$100,000 or less, which offer is not accepted by the insurer or the self insured health care provider, and the claim subsequently results in a judgment or arbitration award that exceeds \$100,000; and the offer to settle was rejected in bad faith, the fund shall have a cause of action against the insurer or self insured health care provider for the amount paid by the fund as a result of the bad faith failure to settle. The insurance commissioner, on behalf of the fund, may bring an action to recover on the cause of action and if the judgment is for the fund, it shall also recover reasonable attorneys fees and the costs of suit.

Sec. -36 Health care providers, proof of financial responsibility required. No health care provider shall be permitted to participate in the patients' compensation fund unless the health care provider gives evidence to the insurance commissioner of maintenance of financial responsibility through:

- (1) Medical malpractice insurance in the amount of \$100,000, or
- (2) A surety bond, proof of qualifications as a self-insurer, or other securities affording financial responsibility substantially equivalent to that afforded under a medical malpractice insurance policy in the amount of \$100,000 as approved by the insurance commissioner under rules adopted by the insurance commissioner.

Sec. -37 Loans by State to the fund. Until the amount of money in the

fund exceeds \$5,000,000 calculated in the manner provided in section -31(b), the insurance commissioner may request a loan from the State general fund; provided that the aggregate amount of such loans that are unpaid shall not exceed \$1,500,000 at any time. Every such loan shall be repaid by the fund within three years together with interest at a rate of one and one-half per cent more than that paid by the State at its last sale of its general obligation bonds. Upon receipt of a loan from the State to the fund, the insurance commissioner shall increase, in addition to any other actuarially required increases, the annual surcharge and the annual amounts provided for in section -31(a)(1) and (2), over the succeeding two years to a level that is calculated to provide a sum to repay the State loan and interest thereon. Loans from the State are authorized only during the period that the fund is accumulating through surcharges on health care providers. No loan shall be made after the amount in the fund reaches the sum of \$5,000,000. The loan shall be made only upon a finding by the director of finance that there are moneys in the general fund which are in excess of the amounts necessary for the immediate state requirements."

SECTION 3. Section 323D-12, Hawaii Revised Statutes, is amended to read:

"Sec. 323D-12 Functions; state agency. The state agency shall:

- (1) Conduct the health planning activities of the State and implement those parts of the state health plan and plans of the health systems agencies within the State which relate to state government.
- (2) Prepare, review, and annually revise the preliminary state health plan pursuant to Public Law 93-641, section 1523(a) (2).
- (3) Assist the statewide council in reviewing the state medical facilities plan pursuant to section 323D-31.
- (4) Administer the state certificate of need program pursuant to part IV of this chapter and serve as designated planning agency under Title XI, Sec. 1122 of the Social Security Act, as amended.
- (5) Determine the need for new institutional health services proposed by health systems agencies.
- (6) Review on a periodic basis all institutional health services offered in the State respecting the appropriateness of such activities.
- (7) Adopt rules to require maintenance of financial responsibility equal to that required for participation in the patients' compensation fund as provided in section -36.
- (8) Do all things necessary as required by federal and state laws."

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read:

"Sec. 431- Malpractice insurance for health care providers, reports required for denial, etc. In addition to the reporting requirements imposed by section -5, every insurer providing professional liability insurance for health care providers, as defined in section -1, shall, within thirty days after denial, non-renewal, or termination of coverage for such insurance, report to the insurance commissioner the name of every health care provider in the State who

has been denied the insurance, whose insurance has not been renewed, or whose insurance has been terminated, and the reason for the denial, non-renewal, or termination.

Sec. 431- Defense of patients' compensation fund. (a) Every professional liability insurance policy for health care provider as defined in section -1 shall include coverage of all defense costs for medical torts. The defense costs shall include defense of the insurer and defense of the patients' compensation fund as established in section -31, notwithstanding the fact that the insurer's liability may be limited to the payment of the first \$100,000 of the judgment, award, or settlement.

(b) If the insurance commissioner has taken action to protect the interest of the fund under section -35, and the insurer has been found to have been in bad faith in defending the fund, the court may order upon request by the insurance commissioner, that the defense costs incurred by the insurance commissioner be paid by the insurer."

SECTION 5. Section 435C-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) The plan shall, pursuant to the provisions of this chapter and the plan of operation with respect to medical malpractice insurance, have the power on behalf of its members:

- (1) To issue, or to cause to be issued policies of insurance to applicants, including incidental coverages and subject to limits as specified in the plan of operation but not to exceed \$100,000 for each claimant under one policy in any one year, with any amount due on a judgment, arbitration award, or settlement in excess of \$100,000 to be paid from the patients' compensation fund created by section -31;
- (2) To appoint service companies to underwrite such insurance and to adjust and pay losses with respect thereto;
- (3) To assume reinsurance from its members; and
- (4) To cede reinsurance."

SECTION 6. Section 453-2, Hawaii Revised Statutes, is amended to read:

"Sec. 453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to his name, with the intent thereby to imply that he is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

No person shall be issued a license to practice medicine or surgery unless he maintains financial responsibility equal to that required for participating in the patients' compensation fund as provided in section -36.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or

the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge 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 State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided, that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel or physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistants, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section -3."

SECTION 7. Section 453-4, Hawaii Revised Statutes, is amended to read:

"Sec. 453-4 Qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless he 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 furnish proof satisfactory to the board that:

- (1) He (A) is a citizen of the United States; or (B) if not a citizen of the United States, has declared his intention to become a citizen of the United States, as provided by law;
- (2) He is of good moral character;
- (3) (A) He is a graduate of a medical school or college approved by the council on medical education and hospitals of the American medical association; or (B) He is a graduate of a foreign medical school, who has had at least three years' medical experience or training in a hospital approved by the council on medical education and hospitals of the American medical association for the internship or residency, and has passed the qualifying examination of the educational council for foreign medical graduates or its successor;
- (4) He has served an internship of at least one year in either a hospital which has been certified or approved for the training of interns and resident physicians by the American medical association, council on

medical education and hospitals, or if outside the United States, in a hospital which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such American medical association approval, or has completed one year of residency training in a program approved by the American medical association, council of medical education and hospitals;

Diplomates of the national board of medical examiners or those who have passed the federation licensing examination (FLEX) with scores deemed satisfactory by the board and who meet the requirements of paragraphs (1), (2), (3), and (4) above, shall be licensed without the necessity of any further examination; provided that with respect to any applicant the board may require letters of evaluation, professional evaluation forms, and interviews with chiefs of service or attending physicians who have been associated with an applicant or chief residents on a service who have been associated with an applicant during his training or during his practice to be used by the board in assessing the applicant's qualifications to practice medicine."

SECTION 8. Section 453-5, Hawaii Revised Statutes, is amended to read:

"Sec. 453-5 Board of medical examiners; appointment, removal, qualifications. For the purpose of carrying out this chapter the governor shall appoint in the manner prescribed in section 26-34, a board of medical examiners, whose duty it shall be to examine all applicants for license to practice medicine or surgery.

The board shall consist of nine persons, seven of whom shall be physicians or surgeons licensed under the laws of the State and two of whom shall be lay members appointed from the public at large. Of the seven physician or surgeon members, four shall be appointed from the city and county of Honolulu and one each from each of the other counties. Medical societies in the various counties may conduct elections periodically but no less frequently than every two years to determine nominees for the board to be submitted to the governor. In making appointments the governor may consider recommendations submitted to him by the medical societies and the public at large. Each member shall serve until his successor is appointed and qualified.

The members of the board shall serve without pay; provided that they shall be allowed their reasonable expenses for travel and other costs incurred in the discharge of their duties. A majority of the board shall constitute a quorum.

The department of regulatory agencies shall provide administrative support to the board. The department shall employ, not subject to chapters 76 and 77, an executive secretary to administer the board's activities."

SECTION 9. Section 453-6, Hawaii Revised Statutes, is amended to read:

"Sec. 453-6 Fees; expenses. No applicant shall be examined under this chapter until he has paid to the board of medical examiners a fee of \$125. As a prerequisite to the issuance of a limited and temporary license under this chapter, the applicant shall pay to the board a fee of \$75; provided that the fee to be paid by an applicant qualifying under section 453-3(4) shall be \$37.50. Every person holding a license under this chapter shall re-register with the board biennially in each even-numbered year, not later than January 31 and for such registration

shall pay a fee of \$150. At the time of re-registration, the physician or surgeon shall present to the board evidence of compliance with a program of continuing medical education adopted by the board. Failure to re-register and present such evidence shall constitute a forfeiture of license, which may be restored only upon written application therefor and payment to the board of a fee of \$200. All such fees shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund."

SECTION 10. Section 453-8, Hawaii Revised Statutes, is amended to read:

"Sec. 453-8 Revocation, limitation or suspension of licenses. Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for him;
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (6) False, fraudulent, or deceptive advertising;
- (7) Being habituated to the excessive use of drugs or alcohol; or being or having been addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (8) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (9) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (10) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (11) Conduct or practice contrary to recognized standards of ethics of the medical profession;
- (12) Performing any surgical or medical treatment which is contrary to accepted medical standards;
- (13) Consistently utilizing medical services or treatment which is inappropriate or unnecessary;
- (14) Failure to maintain financial responsibility equal to that required for participation in the patients' compensation fund as provided in section -36;
- (15) Violation of the conditions or limitations upon which a limited or temporary license is issued.

If any such license is revoked, limited, or suspended by the board for any act or condition listed in this section, the holder of the license shall be in writing notified by the board of the revocation or suspension. Any license to practice

ACT 219

medicine and surgery which has been revoked under this section may be restored by the board of medical examiners."

SECTION 11. Section 453-9, Hawaii Revised Statutes, is amended to read:

"Sec. 453-9 Hearing; procedure. In any proceeding before the board of medical examiners for the revocation, limitation, or suspension of a license to practice medicine and surgery for any act or condition listed in section 453-8, the person whose license is sought to be revoked, limited, or suspended shall be given notice and opportunity for hearing in conformity with chapter 91."

SECTION 12. Section 453-10, Hawaii Revised Statutes, is amended to read:

"Sec. 453-10 Witnesses in such proceeding. In any such proceeding the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in such proceeding. The board may subpoena physicians or surgeons as specialists, on the recommendation of the appropriate specialist society. The board may order a mental, physical, or medical competency examination to determine the capacity or ability of a licensee to continue to practice medicine or surgery and order appropriate specialist societies to conduct such examinations. The person whose license is sought in such proceeding to be revoked, limited, or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held may enforce by proper proceeding the attendance and testimony of witnesses in such proceeding."

SECTION 13. Section 453-11, Hawaii Revised Statutes, is amended to read:

"Sec. 453-11 Recalcitrant witnesses; contempt. If any person called before the board as a witness in any such proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member thereof or the person whose license is sought to be revoked, limited, or suspended in such proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court under chapter 729."

SECTION 14. Chapter 453, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read:

"Sec. 453- Voluntary limitation of license. A physician or surgeon may request, in writing, that the board limit his license to practice. The board may grant the request and may impose conditions on the limited license. The board shall determine whether and when such limitation shall be removed."

"Sec. 453- Disciplinary action. In disciplining a licensee in a proceeding

under section 453-9, the board may impose one or more of the following actions:

- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians or surgeons.
- (2) Suspend the license.
- (3) Revoke the license.
- (4) Limit the license by restricting the fields of practice in which the licensee may engage.
- (5) Fine the licensee, including assessment against him of the costs of the disciplinary proceedings.
- (6) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public.
- (7) Require further education or training or require proof of performance competency."

"Sec. 453- Review of adverse decisions reported by peer review committees. The board shall review all adverse decisions reported to it by the peer review committees of medical societies, hospitals, and other health care institutions required to report by section 663-1.7. The information in such decisions shall be held confidential by the board unless and to the extent any such information is admissible evidence at a hearing held under section 453-9."

SECTION 15. Chapter 622, Hawaii Revised Statutes, is amended by adding to Part V a new section to be appropriately designated and to read:

"Sec. 622- Availability of medical records. If a patient of a health care provider as defined in section -1, requests copies of his or her medical records, the copies shall, if available, be made available to the patient unless in the opinion of the health care provider it would be detrimental to the health of the patient to obtain the records. If the health care provider is of the opinion that release of the records to the patient would be detrimental to the health of the patient, the health care provider must advise the patient that copies of the records will be made available to the patient's attorney upon presentation of a proper authorization signed by the patient.

If an attorney for a patient asks a health care provider for copies of the patient's medical records and presents a proper authorization from the patient for the release of the information, complete and accurate copies of the records shall be given to the attorney within a reasonable time not to exceed ten working days.

Reasonable costs incurred by a health care provider in making copies of medical records shall be borne by the requesting person."

SECTION 16. Section 662-4, Hawaii Revised Statutes, is amended to read:

"Sec. 662-4 Statute of limitations. A tort claim against the State shall be forever barred unless action is begun within two years after the claim accrues, except in the case of a medical tort claim when the limitation of action provisions set forth in section 657-7.3 shall apply."

SECTION 17. Section 657-7.3, Hawaii Revised Statutes, is amended to read:

"Sec. 657-7.3 Medical torts; limitation of actions; time. No action for injury or death against a chiropractor, clinical laboratory technologist or technician, dentist, naturopath, nurse, nursing home administrator, dispensing optician, optometrist, osteopath, physician or surgeon, physical therapist, podiatrist, psychologist, or veterinarian duly licensed or registered under the laws of the State, or a licensed hospital as the employer of any such person, based upon such person's alleged, professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, shall be brought more than two years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, but in any event not more than six years after the date of the alleged act or omission causing the injury or death. This time limitation shall be tolled for any period during which the person has failed to disclose any act, error, or omission upon which the action is based and which is known or through the use of reasonable diligence should have been known to him, or as provided in section -16."

SECTION 18. Section 663-1.7, Hawaii Revised Statutes, is amended to read:

"Sec. 663-1.7 Professional society; peer review committee; no liability; exceptions. (a) As used in this section, "professional society" or "society" means any association or other organization of persons engaged in the same profession or occupation, the membership of which comprises a majority of the people engaged in the profession or occupation in the area which it serves and a primary purpose of which is to maintain the professional standards of the persons engaged in its profession or occupation; and "peer review committee" or "committee" means a committee created by a professional society, or by the medical staff of a licensed hospital, whose function is to maintain the professional standards established by the bylaws of the society or the hospital of the persons engaged in its profession or occupation, or in its hospital.

(b) There shall be no civil liability for any member of a peer review committee for any acts done in furtherance of the purpose for which the committee was established; provided that:

- (1) The member was authorized to perform in the manner in which he did; and
- (2) The member acted without malice after having made a reasonable effort to ascertain the truth of the facts upon which he acted.

(c) This section shall not be construed to confer immunity from liability upon any professional society or hospital, nor shall it affect the immunity of any shareholder or officer of a professional corporation; provided, however, there shall be no civil liability for any professional society or hospital in communicating any conclusions reached by one of its peer review committees relating to the conformance with professional standards of any person engaged in the profession or occupation of which the membership of the communicating professional society consists, to a peer review committee of another professional society whose membership is comprised of persons engaged in the same profes-

sion or occupation, or to a duly constituted governmental board or commission or authority having as one of its duties the licensing of persons engaged in that same profession or to a government agency charged with the responsibility for administering a program of medical assistance in which services are provided by private practitioners.

(d) The highest level peer review committee of a medical society, hospital, or other health care institution shall report in writing every adverse decision made by it to the board of medical examiners within thirty days after the adverse decision is verified by the committee. Failure to comply with this subsection shall be a violation punishable by a fine of not more than \$100 for each member of the committee."

SECTION 19. Section 663-21, Hawaii Revised Statutes, is amended to read:

"Sec. 663-21 Advance payments not admission. In any action, including a medical tort, as defined in section -1, brought to recover damages for personal injuries, wrongful death or property damage no payment made by the defendant or the defendant's insurance company, whether made before or after the complaint is filed, to or for the plaintiff or any other person, hereinafter called an "advance payment", shall be construed as an admission of liability by any person. Except as provided in section 663-22, evidence of such payment shall not be admissible during the trial for any purpose by either plaintiff or defendant."

SECTION 20. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

SECTION 21. There is appropriated out of the general revenues of the State the sum of \$85,000(4), or so much thereof as may be necessary, for the purposes of this Act.

SECTION 22. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 23. This Act shall take effect upon its approval.

(Approved June 9, 1976.)

ACT 220

H.B. NO. 1247

A Bill for an Act Reinstating November 11 as Veterans' Day.

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

SECTION 1. Purpose and findings. The Hawaii State Veterans Council, composed of representatives of the Veterans of Foreign Wars; American Legion; Disabled American Veterans; Fleet Reserve Association; Filipino American Veterans Club; Pearl Harbor Survivor's Association; Hawaii Filipino Veterans

*Edited accordingly.

Club; Military Intelligence Association; Retired Enlisted Association; Noncommissioned Officers Association; and the 1399th Engineers Veterans Club, favors changing the celebration of Veterans Day from its present date to November 11th of each year. The legislature further notes that the major national veterans organizations are requesting the Congress of the United States to amend federal law to change Veterans' Day to November 11th, the original day of Armistice signifying the end of World War I to date. Forty-two states of the United States have enacted legislation effecting the desired change of celebrating Veterans' Day on November 11th.

SECTION 2. Section 8-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 8-1 Holidays designated. The following days of each year are set apart and established as state holidays:

The first day of January, New Year's Day;
The third Monday in February, President's Day;
The twenty-sixth day of March, Kuhio Day;
The Friday preceding Easter Sunday, Good Friday;
The last Monday in May, Memorial Day;
The eleventh day of June, Kamehameha Day;
The fourth day of July, Independence Day;
The third Friday in August, Admission Day;
The first Monday in September, Labor Day;
The second Monday in October, Discoverer's Day;
The eleventh day in November, Veterans' Day;
The twenty-fifth day of December, Christmas Day;

All election days, except primary election day, in the county wherein the election is held;

Any day designated by proclamation by the President of the United States as a day of thanksgiving, fasting or religious observance;

Any day designated by proclamation by the governor as a holiday."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 9, 1976.)

A Bill for an Act Relating to Small Boat Harbors.

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

SECTION 1. The purpose of this Act is to amend chapter 266, Hawaii Revised Statutes, to effect more efficient and responsive administration and to

*Edited accordingly.

defray the initial cost of the state small boating program.

SECTION 2. Section 266-20, Hawaii Revised Statutes is amended to read:

"Section 266-20 Boating program: payment of costs. The cost of administering a comprehensive statewide boating program including the cost of (1) operating, maintaining, and managing all boating facilities under the control of the department of transportation; (2) improving boating safety; (3) operating a vessel registration and boating casualty investigation and reporting system; (4) enforcing boat harbor, navigation, shore waters and beach laws and regulations; (5) assisting in abating air, water, and noise pollution related to small craft; (6) other boating program activities; shall be paid from the boating special fund; and (7) the amortization (principal and interest) of the costs of capital improvements for boating facilities appropriated after July 1, 1975, including, but not limited to, berths, slips, ramps, and related accommodations, may be paid from the boating special fund or from general revenue as the Legislature may authorize in each situation. Provided, however, that the amortization of the costs of constructing general navigation channels, breakwaters, aids to navigation and other harbor protective structures shall be from general revenues. Revenues provided in this chapter for the boating special fund shall be at least sufficient to pay the special fund costs established herein."

SECTION 3. Section 266-21, Hawaii Revised Statutes, is amended to read:

"Section 266-21 Purpose and use of state small boat harbors. State small boat harbors are constructed, maintained, and operated for the primary purpose of promoting recreational boating activities and the landing of fish. For the purpose of this section "recreational boating activities" means the utilization of watercraft for sports, hobbies or pleasure. To implement this purpose, only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor, and which are used for recreational activities or the landing of fish shall be permitted to moor, anchor, or berth at such harbor or use any of its facilities. Vessels used for purposes of recreational boating activities which are also the principal habitation of the owner shall occupy no more than fifteen percent of the respective total moorage space available as of July 1, 1976 at the Ala Wai and Keehi boat harbors. Furthermore, moorage for commercial vessels is permitted in a state small boat harbor in cases where there is no commercial harbor within a distance of three statute miles. The department may adopt rules and regulations pursuant to chapter 91 to further implement this section."

SECTION 4. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Section 266- Permits and fees for state small boat harbors. (a) No person shall moor a vessel in a state small boat harbor without first obtaining a use permit from the department of transportation.

(b) In order to obtain a permit, or a permit renewal, the owner of a vessel shall provide, at his own expense, a marine surveyor's inspection no more than

two years old, certifying that the surveyor has inspected the vessel and considers it to fulfill the requirements set by the department of transportation.

(c) The permittee shall pay moorage fees to the department for said use permit which shall be based on, but not limited to, the use of the vessel, its effect on the harbor, and use of facilities; and, furthermore:

- (1) Moorage fees shall be established by the department and shall be higher for non-residents.
- (2) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. It shall be:
 - (i) Set by the department; and
 - (ii) Not less than \$100.00 for non-residents.
- (3) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee which will be:
 - (i) Not less than two times the moorage fee if the permittee is a state resident; and
 - (ii) Not less than three times the moorage fee if the permittee is a non-resident.
- (4) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and liveaboard fees, a fee based on a percentage of the gross revenues derived from the vessel.
- (d) The department may provide moorage space within state small boat harbors to accommodate visitors on cruising vessels.
- (e) All revenues from the foregoing operations shall be deposited in the boating special fund.
- (f) The department may adopt rules and regulations pursuant to chapter 91 to further implement this section and other sections pertaining to state small boat harbors."

SECTION 5. Section 266-17, Hawaii Revised Statutes, is amended to read:

"Section 266-17 Rates, how fixed. The department of transportation shall adjust and fix and enforce the rates assessable and chargeable by it in respect to dockage, wharfage, demurrage, and other rates and fees pertaining to harbors, wharves, and properties managed and operated by it so as to produce from the rates and fees:

- (1) In respect to all such harbors, wharves and other properties, except such as are principally used for recreation or the landing of fish, revenues sufficient to:
 - (A) Pay when due the principal of and interest on all bonds and other obligations for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, or which are otherwise payable from the revenue or from a special fund maintained or to be maintained from the revenue, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all bonds or other revenue obligations

and interest thereon, which are payable from the special fund, including the reserves therefor;

- (B) Provide for all expenses of operation and maintenance of the properties, including reserves therefor, and the expenses of the department in connection with operation and maintenance; and
- (C) Reimburse the general fund of the State for all bond requirements for general obligation bonds which are or have been issued for harbor or wharf improvements, or to refund any of the improvement bonds, excluding bonds, the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties.”

SECTION 6. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Section 266- Existing permits. An owner of a vessel used as a place of principal habitation holding a permit for that use in a state small boat harbor on the effective date of this Act may continue to moor his vessel in that harbor for such purpose and be permitted to renew his permit provided that he conforms to conditions set forth in section 3 and 4 of this Act. The percentage established in section 266-21 for maximum use of harbor moorage space for principal habitation at the Ala Wai and Keehi Harbors shall not apply to these boat owners until their total number reduces by attrition to that percentage in each harbor.”

SECTION 7. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Section 266- Administration of state small boat harbors. The department shall organize the harbors division to include a separate branch whose sole purpose shall be the administering of the state small boat harbors and the state comprehensive recreational boating program. The branch shall:

- (1) Develop necessary rules and regulations under Section 266-3, Hawaii Revised Statues, for the purposes of this section.
- (2) Organize a comprehensive recreational boating program.
- (3) Develop standard permits, and fees, for moorage in state small boat harbors to comply with section 4 of this Act.”

SECTION 8. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Section 266- Marine inspections. (a) The department shall (1) develop a list of minimum requirements for the marine inspection of vessels seeking permits to moor in state small boat harbors, (2) approve qualified marine surveyors to inspect vessels seeking permits to moor in state small boat harbors, and (3) approve a fee schedule for marine surveyors' inspections.

(b) Vessels failing the marine inspection for a permit or a permit renewal shall have thirty days to correct deficiencies and complete the inspection.

(c) Owners of vessels that fail the marine inspection may contest the inspection at an arbitration board of three approved inspectors and the original inspector.”

ACT 222

SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 9, 1976.)

ACT 222

H.B. NO 2846-76

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. The purpose of this Act is to conform the state income tax provisions with the Internal Revenue Code with respect to the deductions allowable for contributions to retirement plans by self-employed persons and by shareholder-employees of Subchapter S corporations and with respect to the deductions allowable for contributions by individuals to individual retirement accounts.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"Sec. 235-2.1 Internal Revenue Code, further amendments adopted. For each taxable year specified in column 1 below the Internal Revenue Code meant is the Internal Revenue Code of 1954 as amended as of June 7, 1957 and as further amended by the acts of Congress, or portions thereof, enumerated in column 2 (section numbers in column 2 are inclusive). Amendments to the Code not enumerated in section 235-2 or herein shall not be operative for the purposes of this chapter unless specifically adopted.

Column 1	Column 2
Taxable years beginning on or after January 1, 1976.	Public Law 93-406, sections 2001(a), (b), (c); 2002(a), (b), (c), (f), (g)(5) and (6)."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1975.

(Approved June 9, 1976.)

*Edited accordingly.

ACT 223

H.B. NO. 2998-76

A Bill for an Act Relating to the Powers of the Comptroller of the State of Hawaii to Regulate Parking on State Lands.

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

SECTION 1. Section 107-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The Comptroller may assess and collect reasonable fees for parking for all government officials and employees, install parking meters, and restrict and otherwise control parking on all state lands within his jurisdiction.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 9, 1976.)

ACT 224

H.B. NO. 3230-76

A Bill for an Act Relating to Housing for the Elderly.

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

SECTION 1. Chapter 359, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

“PART III. HOUSING FOR ELDERLY PERSONS.

“**Sec. 359. Findings and purpose.** The legislature of the State of Hawaii finds: (a) that there exists in the State an acute shortage of decent, safe and sanitary dwelling accommodations for elderly persons at rents which they can afford to pay; that, as a result, elderly persons are forced to reside in unsafe, unsanitary, overcrowded and congested dwelling accommodations; that such conditions cause an increase in and spread of disease, both physical and mental, and constitute a menace to health, safety and welfare of elderly persons of the State; that such conditions necessitate excessive and disproportionate expenditures of public funds for public health and safety, fire and accident prevention and other services and facilities; (b) that the shortage of safe and sanitary dwelling accommodations for elderly persons of low income cannot be relieved through the operation of private enterprise alone, and that the construction of housing accommodations for elderly persons by the State would, therefore, not be in competition with private enterprise; and (c) that the acquisition, construction, and reconstruction of housing accommodations to provide safe and sanitary dwelling facilities for elderly persons are public uses and purposes for which public moneys may be spent and private or public property acquired; after

*Edited accordingly.

all, the very quality of life is directly affected by the type of housing and living arrangements available to occupants.

There are several prominent factors which appear to affect the housing problems of the elderly. Some of these are unique to Hawaii with its varied cultural heritage, and others are common throughout the nation. Generally, the housing problems of the aged are compounded by several factors including the following: (1) very low income, often at poverty level; (2) ethnic background, which although not a problem in itself in this State, does mean resultant language and cultural barriers. (Since so many immigrants were brought in to work on the plantations, foreign-speaking elderly are not uncommon here. On the contrary, they constitute more than half of the current aged population in need); (3) the lack of family, due to death or relocation; (4) physical handicaps and other medical problems which make it difficult to maintain housing; and (5) isolation and loneliness, especially when living in large, impersonal and consequently unfriendly apartment buildings.

Various estimates exist in relation to the magnitude of the elderly housing problem. A recent survey indicated that an estimated fifteen per cent or 6,300 of the elderly population are in need of better, less expensive housing. For these thousands of elderly, access to suitable housing arrangements remains a critical problem. Presently, there are about 1,400 elderly persons or families on the Hawaii housing authority's waiting lists. Families on these said waiting lists have been known to wait as long as four or five years before finally gaining occupancy. Obviously, the authority's programs, although widely circulated among the elderly, have not reached the universe of the aged population, per se.

Presently, the authority maintains no special allocation for any particular segment of individuals within the group designated as low income. Once eligibility for a program has been established, only a list of priorities determines participation in the program. Consequently, there is no amount of funding within the programs set aside especially for the elderly. This should not be so, for taken in the aggregate, the elderly demonstrate that they have different needs and preferences than that of the client group served by the authority as a whole.

It is therefore the purpose of the Act to authorize the Hawaii housing authority to do any and all things necessary or desirable to acquire, construct, reconstruct, operate and maintain housing projects for the elderly for the welfare of the State and to remedy the conditions mentioned above. The primary thrust of this Act is to provide funds through a newly created elderly housing fund as well as other available funds of the authority, and through the financial assistance from the federal government. Further, this Act will provide an incentive for the counties and non-profit organizations to assume a far more active role in elderly housing development than they have up to now.

Sec. 359. Definitions. The following terms, wherever used or referred to in this part shall have the following respective meanings, unless a different meaning clearly appears from the context:

The terms "housing authority", "authority", "State", "political subdivisions", "government", and "federal government", shall have the same respective meanings as set forth in chapter 356.

The terms "develop" or "development" and "administer" or "administra-

tion" shall have the same respective meanings as set forth for such terms in part I.

"Housing project" or "project" shall include all real and personal property, buildings and improvements, offices, lands for gardening or farming, and community facilities acquired or constructed or to be acquired or constructed under this part pursuant to a single plan or undertaking to provide safe and sanitary dwelling accommodations for elderly persons. The terms may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structure, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith under this part; and the terms shall include all other real and personal property and all tangible or intangible assets held or used in connection with a housing project developed or administered under this part.

"Elderly housing study" means a study of a designated geographic area conducted by the authority as a prerequisite to the development and construction of any elderly housing project in that area and which shall be made public. The study shall include at a minimum, qualitative and quantitative information and data relating to the shortage of dwelling units exclusively for elderly persons, elderly persons in need and qualified for elderly housing in the geographic area, those public and private facilities which provide services desirable to elderly persons, a list of lands available for possible development of a housing project for the elderly, the accessibility of the lands for possible development of a housing project and the public and private facilities desirable to elderly persons, and other pertinent information the authority may deem necessary.

"Elderly person" means a person who is a bona fide resident of the State and who either:

- (1) Has attained the age of 62; or
- (2) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long, continued, and indefinite duration; or
- (3) Has a physical impairment expected to be of long, continued and indefinite duration which substantially impedes his ability to live independently and which could be improved by more suitable housing and conditions.

"Bonds" means any bonds, interim certificates, notes, debentures or other evidences of indebtedness of the authority issued pursuant to this part.

"Eligible developer" means a person, partnership, cooperative, firm, profit or non-profit corporation, or association determined by the authority:

- (1) To have the experience and financial responsibility to construct housing of the type described in this section and of the magnitude encompassed by the given project;
- (2) To have submitted plans for a project which meets the objectives of this part, maintains the aesthetic values of the area, and meets the requirements of applicable environmental statutes, and rules;
- (3) To meet all other requirements the authority deems just and reasonable, and all requirements provided in this section.

"Public agency" means any office, department, board, commission,

bureau, division, public corporation, agency, or instrumentality of the federal government or State or its political subdivision.

Sec. 359- Powers and duties, generally. (a) The authority shall develop elderly housing projects pursuant to the findings and determinations of the elderly housing study, which shall be conducted by the authority provided that the study first finds and determines that there exists a critical elderly housing shortage in the designated geographic area covered by the study. Such elderly housing projects shall be deemed to have a priority in the State's overall housing development plans.

(b) In the development and construction of elderly housing projects, the authority may enter into cooperative agreements, provide financial assistance and other assistance as prescribed by law with public agencies or eligible developers.

(c) Prior to the development of any housing projects for elderly persons, the site, plans and specification, estimated development cost, including administrative and other costs, operation or management plans for such projects which shall include income receipts and other operating costs shall be submitted by the developer and shall be subject to the prior written approval of the authority.

(d) The authority shall have the right of inspection of any elderly housing project at any time.

(e) The authority is empowered to develop, on behalf of the State or in partnership with others, housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules and regulations of any governmental agency relating to zoning and construction standards for multi-unit housing projects, development and improvement of land, the construction and rental of dwelling units for elderly persons provided that section 359G-4(g)(1), (g)(2), and (g)(3) shall apply.

Sec. 359- Extension of powers. In the selection, ownership, development, and administration of housing projects under this part, the authority shall have all the rights, powers, privileges, and immunities that the authority has under chapter 356 and any law in amendment thereof or in addition thereto (including, without limitation to the generality of the foregoing, the power of eminent domain, and the power to make and execute contracts, to issue bonds and other obligations, and give security therefor, and to do any and all things necessary, desirable, or convenient to develop and administer housing projects) in the same manner and to the same extent as though all the provisions of law contained in chapter 356, and in any laws in amendment thereof or in addition thereto, were expressly applicable to housing projects developed or administered under this part and to the authority and others in regard thereto; provided, that the authority may make payments, in such amounts as it finds necessary or desirable, for any services, facilities, work, privileges, or improvement furnished for or in connection with the housing projects.

Sec. 359- Eminent domain, exchange or use of public property. The authority may, through exchange, voluntary negotiation or by eminent domain, acquire any private land in the State for the purpose of this part. The exchange of

land shall be in accordance with section 171-50; provided that the public land to be exchanged need not be of like use to that of the private land; and provided further, that if the use of the private land prior to the exchange is intensive agricultural, the authority shall determine the agricultural productivity of the private land and, whenever and wherever possible, exchange so much state land as shall be sufficient to approximate or equal the productivity of the private land so acquired by the State.

Except as hereinafter set forth in this paragraph, the authority may also develop state lands but not federal lands, state monuments or historical sites or parks and subject to the prior approval of the land use commission in the case of agricultural land and the prior approval of the board of land and natural resources in the case of conservation land. Whenever it proposes to develop public lands it shall file with the department of land and natural resources a petition setting forth such purpose.

Sec. 359- State assistance to governmental agencies and persons. (a) The authority may provide assistance and aid to public agencies, eligible developers and non-profit corporations in developing and constructing new housing projects and rehabilitating old housing for elderly persons of low income by making available interim construction loans from the proceeds of tax exempt general obligation bonds provided, that the development and construction of new housing projects and rehabilitation of old housing for elderly persons of low income qualify for the housing assistance from the federal government. Federal housing assistance means financial or other aid granted to the State to help defray construction and rental costs associated with such housing project or projects.

(b) State financial assistance granted to public agencies and eligible developers shall be in an amount not in excess of the development cost of the project, including administrative or other cost or expense to be incurred by the authority. In anticipation of final payment of such financial assistance, the authority in accordance with such assistance, may make temporary advances to the public agencies and eligible developers for preliminary planning expense or other development cost of such project or projects.

(c) The authority may charge service fees and premiums upon the issuance of any interim construction loan under this section. The interest paid on such loans, and service fees and premiums shall be paid into the elderly housing fund created by section 359- .

(d) The rates of interest on loans secured and made under this part shall be established by the authority, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of this part. In the event that no such sale intervenes in a twelve-month period after the last rate fixing, the authority may review the then existing rates on loans made under this part and retain the existing rate or, with the approval of the director of finance, establish different rates. The director of finance shall approve such rates so as to produce up to but not in excess of the maximum yield to the State permitted under such section 103(d)(2) of the United States Internal Revenue Code of 1954, on the assumption that the general obligation bonds, the proceeds of which are to be used for the purposes of this part, would otherwise be "arbitrage bonds" under that section were such maximum

yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91.

(e) Loans made under this part shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest only in the land upon which the dwelling units are constructed. The authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and such other conditions consistent with the production and rental of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project.

(f) The authority may require performance bonds be posted to the benefit of the State with surety satisfactory to it guaranteeing completion of housing projects and performance by qualified developers or the State may act as a self-insurer requiring such security, if any, from qualified developers as the authority shall deem necessary.

(g) The authority may obtain from any federal agency any insurance or guarantee for the payment of interest or principal, or both, on any obligations issued pursuant to the provision of this section.

Sec. 359- Cooperative agreements with political subdivisions and other governmental agencies. (a) The authority shall have the power to provide assistance to political subdivisions and other governmental agencies in the planning, construction, and operation of housing projects and to enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation. The authority may receive assistance from political subdivisions and other governmental agencies in the planning, construction, and operation of housing projects and to enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation.

(b) When a political subdivision deems it necessary that the authority develop and administer an elderly housing project, the legislative body of the political subdivision shall by resolution request the authority to develop a housing project or projects within the political subdivision and shall approve the site or sites thereof. During the time the authority maintains and administers the housing project pursuant to request of a political subdivision:

- (1) The political subdivision shall not levy or impose any special or improvement district assessments upon the housing project or upon the authority;
- (2) That the political subdivision shall furnish, or cause to be furnished, to the authority, without cost or charge to the authority or to the tenants of the housing project, public services and facilities which are, upon the enactment of this part, being furnished without cost or charge to any other dwellings or any other inhabitants of the political subdivision, including but not limited to: fire, police, and health protection and services; nursing, medical, or hospital care for the sick, aged, poor, or indigent; maintenance and repair of highways, streets, roads, alleys, sidewalks, and sewer and water systems within or adjacent to the project; garbage and trash collection and disposal; storm drainage; control

- of and protection against flood or flood waters; street lighting on streets or roads within the project and on the boundaries thereof; and adequate sewer services for the projects;
- (3) That the political subdivision shall, without cost or charge to the authority, vacate such streets, roads and alleys within the area of the housing project as the authority may find necessary in the development or administration thereof and shall convey without charge to the authority such interest that the political subdivision may have in the vacated areas;
 - (4) The political subdivision insofar as it may lawfully do so, shall make changes in the zoning of the site of the housing project as are reasonable and necessary for the development and protection thereof;
 - (5) The political subdivision shall, without cost or charge to the authority or to the tenants of the housing project, provide, improve, pave, construct, and maintain all interior streets, roads, alleys, sidewalks, and storm and sanitary sewer mains and laterals within the area of the project (and shall accept necessary dedications of land therefor), and shall, in like manner, provide, improve, pave, construct, and maintain all streets, roads, and alleys bounding the project or necessary to provide adequate access thereto, and also all water mains and storm and sanitary sewer mains leading to the project or serving the bounding streets thereof;
 - (6) The political subdivision shall, when requested by the authority, without cost or charge to the authority, remove from the project any sick or disabled elderly person, who is a tenant therein, and shall thereupon furnish the elderly person, without cost or charge to the authority, suitable medical, nursing, and hospital treatment and care;
 - (7) The political subdivision shall observe and perform such other terms and conditions as the authority may deem necessary or desirable in connection with the development or administration of the project.

Sec. 359- Aid from federal government. The authority may borrow money or accept financial or other assistance from the federal government to assist in its developing and administering housing projects. The authority may do any and all things necessary or desirable to secure such assistance (including obligating itself in any contract with the federal government for loans or contributions to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default thereunder), in the same manner and to the same extent as it may do to secure such aid in connection with slum clearance and housing under chapter 356.

Sec. 359- Approval of applications for federal assistance. (a) Any application for federal assistance and involving financial assistance from the state for a housing project for the elderly by a public agency or qualified developer shall be first submitted to and approved by the authority. Upon the approval of such application, such application shall be sent by the authority to the appropriate agency of the federal government for federal approval.

(b) If the authority disapproves the application, it shall notify the public

agency or eligible developer within fifteen days, stating the reasons for disapproval.

Sec. 359- Government aid; political subdivisions. Any political subdivision may appropriate money for the purposes of meeting any local participation in housing projects' costs or expenses or of providing funds, property, services, or facilities for the Hawaii housing authority in developing or administering housing projects.

Sec. 359- Government aid; extension of powers. The State, its political subdivisions and agencies, shall have the same rights and powers to cooperate with and aid the Hawaii housing authority with respect to the development and administration of housing projects that the State, its political subdivisions and agencies respectively have under and pursuant to chapter 358 for the purposes of aiding and cooperating in the planning, construction, and operation of slum clearance and housing under chapter 356.

Sec. 359- Tenant selection; dwelling accommodations; rentals. In the administration of housing projects the Hawaii housing authority shall at all times observe the following duties in regard to tenant selections, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elderly persons as tenants in the housing projects.
- (2) It may accept as tenants in a single dwelling accommodation in any such housing project a husband and wife, or two or more members of the same family; provided, each such person is an elderly person. It may also accept as a tenant in any such dwelling accommodation or in any such project, in case of the illness or other disability of an elderly person who is a tenant in the dwelling accommodation or in the project, such person as shall be designated by the elderly person as his or her companion and who is approved by the authority, although the person is not an elderly person; provided, any such person shall cease to be a tenant therein upon the recovery of, or removal from, the project of the elderly person.
- (3) It may rent or lease to an elderly person a dwelling accommodation consisting of such number of rooms as it deems necessary or advisable to provide safe and sanitary accommodations to the proposed occupant or occupants thereof without overcrowding.
- (4) Notwithstanding that the elderly person has no written rental agreement or that it has expired, so long as the elderly person continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elderly person, nor shall the authority otherwise cause the elderly person to quit the dwelling unit involuntarily, nor demand an increase in rent from the elderly person; nor decrease the services to which the elderly person has been entitled during hospitalization of the elderly person due to illness or other disability.

Sec. 359- Applications for elderly housing; restrictions. No applicant shall be entitled to elderly housing under this chapter who has sufficient income or other resources to provide a subsistence compatible to decency and health. In determining the needs of an applicant for elderly housing, the authority shall consider current available resources; provided that all assets transferred or assigned by the applicant to another person within the three-year period prior to the submittal of an application shall be included; and provided further that the valuation of the assets, including real property, shall be based on their fair market value as of the date of transfer.

Sec. 359- Housing projects for the elderly. (a) Notwithstanding any statute or ordinance to the contrary, multi-story housing projects for the elderly shall be developed only on land which is either zoned or designated for apartment or business use on the general plans and/or detailed land use plan of the respective county wherein the land to be utilized for such projects are located and shall be exempt from all county zoning ordinances and zoning codes and restrictions therein, including, but not limited to, building height restrictions, floor area ratio formulas, open space, living space, loading space, recreational space, and land use intensity requirements. The director shall before approving such a project hold a public hearing pursuant to chapter 9I.

(b) Housing projects for the elderly shall be developed to afford maximum accessibility to public and private facilities which provide service desirable to elderly persons and in accordance to the regional elderly housing study.

(c) Notwithstanding any other law to the contrary, all housing projects shall either provide the necessary space within the housing project or dedicate an area adjacent to or within the general vicinity for the development and construction of dining room, health, and community facilities. Community facilities shall include real and personal property, and buildings, equipment, lands, and grounds for recreational or social assemblies, for educational, health, or welfare purposes and necessary or convenient utilities, designed primarily for the benefit and use of the authority or the occupants of the dwelling accommodations.

Sec. 359- Elderly housing fund. There is created an elderly housing fund. Notwithstanding any law to the contrary, funds appropriated for the purposes of this part and all moneys received or collected by the authority under provisions of this part shall be deposited into the elderly housing fund created under this section. Funds may further be deposited into the elderly housing fund from the dwelling unit revolving fund as prescribed under section 359G-10 and from the housing revolving funds as prescribed under section 359-13 provided, that when funds are used for the purposes of this part from the housing revolving fund created by section 359-13, such moneys are deemed necessary by the authority to carry out the purposes of this part, including the making of investigations, findings, and determinations and the development and administration of housing projects.

The proceeds in the elderly housing fund shall first be used for the necessary expenses in administering this part and to carry out the purposes of this part.

Sec. 359- Disposition of housing. If the authority shall at any time determine that any housing project is no longer needed for dwelling accommodations

for elderly persons, the project shall become subject to and be administered by the authority under either chapter 356 or part I hereof, as the authority may deem advisable.

Sec. 359- Powers in addition to other powers. The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law, and nothing herein shall be construed as limiting any other powers of the Hawaii Housing authority.

Sec. 359- Rules. The director shall adopt rules pursuant to chapter 91 necessary for the purposes of this part.

Sec. 359- Funding for elderly housing project. The director of finance is authorized to issue general obligation bonds of the State. The proceeds from the sale of such bonds shall be deposited into the elderly housing fund created by section 359- and which shall be used for the purposes of this part. Pending the receipt of funds from the issuance and sale of such bonds, the amount required for the purposes of this part shall be advanced from the general fund of the State."

SECTION 2. Part III of Chapter 359, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 356-20.1, Hawaii Revised Statutes, is repealed.

SECTION 4. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with his reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*

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

(Approved June 9, 1976.)

A Bill For an Act Relating to Housing.

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

*Edited accordingly.

SECTION 1. The legislature finds that the shortage of housing affordable by residents of low and moderate income remains one of Hawaii's major social problems. The legislature further finds that the primary form of public intervention in this problem must continue to be the housing development program initiated by the Hawaii housing authority pursuant to Act 105, Session Laws of Hawaii 1970. Five years of operation under Act 105 have resulted in solid accomplishments, and many citizens have obtained quality, affordable shelter that would not have been available without Act 105. To effectively fulfill its commitment of providing decent and reasonably priced shelter to residents of low and moderate means, the continuous employment of capable and qualified individuals must be maintained in order that the delivery of such housing may be effectively achieved and enhanced.

The legislature determines, however, that the housing development program is in need of improvement to provide for more efficient and extensive production of housing. The purpose of this Act is to make improvements in all aspects of the Act 105 housing development program.

SECTION 2. Chapter 356, Hawaii Revised Statutes, is amended to read as follows:

1. Section 356-5 is amended to read:

"Sec. 356-5 Housing authority to be public corporation; commissioners.

An authority to be known as the Hawaii housing authority is created. The authority shall be a public body and a body corporate and politic with perpetual existence, and shall consist of eight commissioners of whom six shall be public members appointed by the governor with the consent of the senate. Not more than three of the public members shall be members of the same political party. Two of the public members of the commission shall be appointed at large, one shall be appointed from the city and county of Honolulu and one from each of the counties of Hawaii, Maui, and Kauai. The director of social services shall be an ex officio voting member of the authority as provided for in section 26-14, but shall not be an ex officio chairman. The special assistant for housing appointed pursuant to section 359G-2 shall be an ex officio voting member of the authority.

A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. Four commissioners shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The governor shall file with the lieutenant governor a certificate of the appointment or reappointment of any commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

The governor may appoint an acting commissioner to serve as such during the temporary absence from the State or the illness of any regular commissioner appointed as above provided. The governor shall file with the lieutenant governor a certificate of the appointment of any acting commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the acting commissioner. The acting commissioner shall, during his term of service,

have the same powers and duties as the regular commissioner, and shall be known as an acting commissioner.

The authority shall select from among its members a chairman and a vice-chairman, and it shall employ, not subject to chapters 76 and 77 and section 26-35(4), an executive director. Technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require may be employed subject to chapters 76 and 77. The authority may call upon the attorney general for such legal services as it may require or it may employ its own counsel and legal staff. The authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. The staff provided under section 359G-3 shall be in addition to any staff provided for in this chapter."

2. Section 356-20 is amended to read:

"Sec. 356-20 Zoning and building laws to be observed. All housing projects of the authority shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the housing project is situated; provided that housing projects developed pursuant to section 359G-4(d) and section 359G-4.1 shall be exempt from this section."

3. Section 356-29 is amended to read:

"Sec. 356-29 Form and sale of bonds. (a) The bonds of the authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from the date thereof, bear interest at such rate or rates, not exceeding eight per cent a year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as the resolution, its trust indenture, or mortgage may provide.

(b) The bonds may be sold at not less than par at public sale held after notice published once at least five days prior to the sale in a newspaper having a general circulation in the State; provided that the bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

(c) In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons cease to be commissioners or officers before the delivery of the bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

(d) In any suit action, or proceedings involving the validity or enforcement of any bond of the authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and the project shall be conclusively deemed to have been planned, located, and

constructed in accordance with the purposes and provisions of this chapter."

SECTION 3. Chapter 359, Hawaii Revised Statutes, is amended to read as follows:

1. Section 359-11 is amended by amending subsection (a) to read:

"(a) Notwithstanding any provision of law to the contrary, the authority shall fix the rentals for dwelling accommodations and other facilities in the housing projects provided for by part I of this chapter, at such rates as will produce revenues that will be sufficient to pay all expenses of management, operation, and maintenance, including the cost of insurance, a proportionate share of the administrative expenses of the authority to be fixed by it, and the costs of repairs, equipment, and improvements, to the end that the housing projects shall be and always remain self-supporting. The authority may, in its discretion, fix such rates as a percentage of tenant income, and in such amounts as will produce sufficient revenues out of which to amortize the cost of the housing projects, including equipment, over period or periods of time as the authority may deem advisable."

2. By adding a new section to read:

"Sec. 359-72.1 Bond issues authorized. (a) In accordance with the powers contained in Public Law 93-383, as amended, the authority may, with the approval of the governor, issue and sell taxable housing bonds, including refunding bonds for the purpose of paying or refunding bonds previously issued by the authority under this section, from time to time, at such times and in such amounts as it may deem advisable for the purposes of acquiring, constructing, or developing housing projects under this chapter or any other chapter it administers.

(b) The principal and interest on these bonds shall be payable exclusively from the income and revenues of the housing project acquired, constructed, or developed with the proceeds of these bonds and the federal government grants to the authority under section 802(c) (2), Public Law 93-383, as amended.

(c) The taxable housing bonds issued may be additionally secured by a mortgage of a project acquired, constructed, or developed with the proceeds of these bonds."

3. Section 359-79 is amended by amending subsection (a) to read:

"(a) Housing bonds issued pursuant to section 359-72 shall bear interest at such rate or rates not exceeding eight per cent a year; and housing bonds issued pursuant to section 359-72.1 shall bear interest at such rate or rates not exceeding ten per cent a year. All bonds shall be payable semiannually, may be term or serial bonds, may be callable at the option of the Hawaii housing authority, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective date, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may have such rank or priority, may be subject to such terms of redemption (with or without premium), may be executed in such manner, may contain such terms, covenants, and conditions, may be in such denomination or denominations, and may be in such form, either coupon or registered, as the resolution of issuance may provide, subject to this part. A resolution of issuance may also provide for the refunding of any bonds subject to this part except that

refunding bonds may mature within forty years from the date of the bonds or any series thereof."

SECTION 4. Chapter 359G, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to read:

"Sec. 359G-1.1 Definitions. Unless otherwise clear from the context, as used in this chapter:

- (1) "Eligible bidder" means a person, partnership, firm, or corporation determined by the authority:
 - (A) To be qualified by experience and financial responsibility to construct housing of the type proposed to be contracted;
 - (B) To have submitted the lowest acceptable bid; and
 - (C) To form a corporation to comply with chapter 416 to receive a lease of lands.
- (2) "Eligible developer" means any person, partnership, cooperative, firm, non-profit or profit corporation or public agency determined by the authority:
 - (A) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
 - (B) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
 - (C) To be fully capable, on the basis of experience and reputation to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute; if applicable; and
 - (D) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this chapter.
- (3) "Land" or "property" includes vacant land or land with site improvements whether partially or entirely finished in accordance with governmental subdivision standards, or with complete dwellings.
- (4) "Mortgage holder" includes the United States Department of Housing and Urban Development, Federal Housing Administration, United States Department of Agriculture, Farmers Home Administration, any other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.
- (5) "Mortgage lender" means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Hous-

ing Administration and maintaining an office in the State.

- (6) "Purchaser's equity" means the difference between the original cost of the dwelling unit to the purchaser, and the principal amount of any mortgages, liens, or notes outstanding.
- (7) "Qualified resident" means a person who:
 - (A) Is a citizen of the United States or a declarant alien;
 - (B) Is at least eighteen years of age;
 - (C) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter; and
 - (D) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase.

Any person whom the authority finds to be within one of the following classes, shall not be eligible to become a purchaser of a dwelling unit, to wit:

- (A) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; and
- (B) A person who himself or whose husband or wife (when husband and wife are living together) has pending an unrefused application to purchase a dwelling unit under this chapter from the authority.
- (8) "Short term project notes" means evidences of indebtedness issued by the State for specified housing projects and secured by such projects the terms of which call for complete repayment by the State of the face amount in not less than two nor more than ten years."

2. Section 359G-3 is amended to read:

"Sec. 359G-3 Housing authority; staff and contract services. The Hawaii housing authority shall administer this chapter. The authority may employ staff, subject to chapters 76, 77, and 78. Other persons may be hired on a contractual basis not subject to chapters 76, 77, and 78, when, in the judgment of the authority, the services to be performed are unique and essential to the execution of the functions and purposes of this chapter. No contract shall be for a period longer than two years, and no person hired under contract shall be employed beyond a maximum of six years; provided that services may be contracted for a time, for the completion of specified tasks, or for the duration of the development of a dwelling unit project; provided further that where services are to be contracted for the duration of the development of a dwelling unit project, the two-year contract limitation shall not apply."

3. Section 359G-3.1 is amended to read:

"Sec. 359G-3.1 Housing assistance unit. The governor by executive order may establish a housing counseling and referral unit within the authority. The unit shall be responsible for providing counseling to prospective homeowners seeking to purchase a home, and for providing listing and referral services to tenants seeking to rent homes."

4. Section 359G-4 is amended to read:

"Sec. 359G-4 Powers and duties, generally. (a) The authority shall develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease or rent or cause to be leased or rented the land and the completed units at the lowest possible price to qualified residents of the State, in partnership with a qualified partner or in its own behalf.

(b) The authority shall require all applicants for the purchase of dwelling units to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this chapter by the authority shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the authority in connection with any application shall constitute perjury and be punishable as such. The authority shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has units available.

(c) The authority shall adopt, in accordance with chapter 91 all rules necessary to carry out the purpose of this chapter, including rules relating to determining preference among applicants for housing and determining qualification for and recompense or profit distribution to any partner.

(d) Upon direction from the governor and for such period as he shall authorize, rules on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the authority, shall participate; provided that these rules shall not contravene any safety standards or tariffs approved by the public utilities commission; provided further that these rules shall follow existing laws as closely as is consistent with the production of low cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

Upon the adoption of such rules, they shall have the force and effect of law and shall supersede, for all projects in which the State through the authority shall participate, all other inconsistent laws, ordinances, and rules relating to the use, zoning, planning, and development of land, and the construction of dwelling units thereon; provided, that any rules shall, before becoming effective, be presented to the legislative body of each county in which they will be effective and the legislative body of any county may within forty-five days approve or disapprove, for that county, any or all of the rules by a majority vote of its members. On the forty-sixth day after submission any rules not disapproved shall be deemed to have been approved by the county.

(e) The authority may acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this chapter. Whenever land with a completed dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for such dwelling, including land, shall not exceed its appraised value. Land or property acquired in anticipation of future use may be leased for the interim period by the authority for such term and rent as it deems appropriate.

(f) The authority may make and execute contracts or other instruments necessary or convenient to carry out the purpose of this chapter.

(g) Upon authorization by the legislature, the authority shall cause the

State to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease or rental of land and dwelling units by qualified residents under this chapter;
- (5) Payment of any services contracted for under this chapter, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the authority to provide for citizen participation in the development of housing projects, the implementation of this chapter, and the staffing of any citizen advisory committee the authority may establish;
- (6) The cost of repurchase of units under section 359G-9.2; and
- (7) Any other moneys required to accomplish the purposes of this chapter.

(h) Do all things necessary and convenient to carry out the purposes of this chapter."

5. By adding a new section to read:

"Sec. 359G-4.1 Housing development; exemption from statutes, ordinances, charter provisions, rules. The authority may develop, on behalf of the State or in partnership, housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development and improvement of land and the construction and sale of homes thereon; provided that:

- (1) The authority finds the project is consistent with the production of housing under this chapter, and meets minimum requirements of good design, pleasant amenities, health, safety and coordinated development and in harmony with the general purpose and intent of this chapter;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The authority shall have first presented the plans and specifications for the project to the legislative body of the county in which the project is to be situated, and the legislative body, which shall have the right to approve or disapprove the project within forty-five days after presentation, shall have approved the project within forty-five days. On the forty-sixth day after presentation, a project not disapproved shall be deemed approved by the legislative body of the county. The approval shall be based, or deemed to be based, upon a finding that the spirit of any applicable ordinance of that county in maintaining public welfare and safety is not prejudiced by the variance of the proposed project from such ordinance.

The final plans and specifications for the project approved by the legislative body, shall constitute the zoning, building, construction and subdivision standards for that project. No action shall be prosecuted or maintained against any county, its officials or employees, on account of actions taken by them in reviewing, approving or disapproving such plans and specifications. For purposes of sections 501-85 and 502-17, the executive director of the authority or the respon-

sible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar."

6. Section 359G-6 is amended to read:

"Sec. 359G-6 Dwelling unit project, construction and sponsorship of.

(a) The authority shall, on behalf of the State, or in partnership with qualified developers and contractors, develop real property and construct dwelling units thereon. Qualifications for developers and contractors shall be provided by rules to be adopted by the authority in accordance with chapter 91. Any person, if qualified, may act as both the developer and the contractor.

(b) In selecting the partners or in contracting any services or materials for the purposes of this chapter, the authority shall not be subject to the competitive bidding laws.

(c) The authority shall have sole control of the partnership, shall keep all books of the partnership, and shall ascertain all costs of the partnership, including the cost of services performed by any other partners and it shall audit the same. The other partners shall perform services for the partnership under the direction of the authority and shall be reimbursed for all costs relating to the project as certified by the authority including administrative and overhead costs. Additionally the other partners shall, upon occupancy of the dwelling unit by the purchaser be entitled to a guaranteed gross share of not more than fifteen per cent of the actual cost of the project pro rated to such dwelling unit less any amount subsidized by the State. Subsidies shall include tax relief granted under section 359G-15, unrecovered development and land costs and any other subsidized items as defined in rules to be adopted by the authority pursuant to chapter 91. The percentage of such share shall be determined by the authority by contract with the partner based upon the nature of the services rendered by them.

(d) The authority may require the performance bonds be posted to the benefit of the State with surety satisfactory to it guaranteeing performance by the other partners, or the State may act as a self insurer requiring such security, if any, from the other partners, as the authority shall deem necessary.

(e) The authority may also contract, subject to rules adopted pursuant to chapter 91 but without reference to competitive bidding laws, with any developer, contractor, engineer, architect or any other person or firm whose services would aid in accomplishing the purposes of this chapter."

7. Section 359G-7 is amended to read:

"Sec. 359G-7 Bond financing. (a) General obligation bonds and short term project notes of the State in the aggregate amount not to exceed \$125,000,000 \$105,000,000† may be authorized for the dwelling unit revolving fund under this chapter.

(b) Pending the receipt of funds from the issuance and sale of such bonds and notes, the amount required for the purposes of this chapter shall be advanced from the general fund of the State. Upon the receipt of the bond or note funds, the

†Vetoed as indicated.

general fund shall be reimbursed. The director of finance may sequester and separate the proceeds from sale of the bonds and notes into separate funds. The amounts in either fund may be used for any of the purposes set forth in this chapter, including permanent financing, and the state director of finance shall have the authority to use the moneys in the general obligation bond fund for projects which are receiving no federal assistance in the form of insurance, guarantee, or subsidy."

8. Section 359G-8 is amended to read:

"Sec. 359G-8 Sale, mortgages, agreement of sale, other instruments.

(a) The authority shall sell completed dwelling units developed and constructed hereunder to qualified residents in fee simple, or shall cause them to be leased or rented to qualified residents, at a price or rental based on cost as determined by the authority; provided that the authority may retain such units as necessary in a project for lease or rental to nonprofit community organizations for community activity or facility purposes. The gross share to the other partners, or contract payments, and any amounts subsidized by the State, including but not limited to the land, need not be counted as cost so as to increase the price. Such may be borne by the State, under rules adopted pursuant to chapter 91, subject to reimbursement upon sale as is provided for in section 359G-9.2.

(b) If a qualified purchaser is unable to obtain sufficient funds at reasonable rates from private lenders, the authority may, by way of mortgage, agreement of sale, or other instrument to secure the indebtedness, loan to the purchaser up to one hundred per cent of the purchase price. The purchaser shall in such event execute with the authority an agreement of sale or mortgage or other instrument under the terms of which the unpaid principal and the interest thereon shall be paid in monthly installments over a period of not more than forty years.

(c) Every mortgage, agreement of sale, other instrument to secure the indebtedness, or instrument of indebtedness executed by the authority may contain such other provisions as are usually found in such instruments and shall provide that the purchaser may repay the whole or any part of the unpaid balance of the purchase price plus accrued interest at any time without repayment penalty.

(d) If the purchaser defaults on the payment of any loan, the authority shall take all necessary action to collect the delinquent principal and interest on the loan and may take all actions allowed to holders of obligations, including the power to repossess, lease, rent, repair, renovate, modernize, and sell the property foreclosed, subject to the restrictions hereinafter described.

(e) The mortgages, agreements of sale, and other instruments of indebtedness may, at the direction of the authority, be assigned to and serviced by commercial banks and other lending institutions doing business in the State at a fee of not more than one-half of one per cent of the amount loaned to the purchaser."

9. Section 359G-9.1 is repealed.

10. By adding a new section to read:

"Sec. 359G-9.2 Dwelling units; restrictions on transfer, waiver of

restrictions. (a) The following restrictions shall apply to the transfer of a dwelling unit purchased from the authority, whether on fee simple or leasehold property;

- (1) For a period of ten years after the purchase, whether by lease, assignment of lease, deed or agreement of sale, if the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the first option to purchase the unit and property or lease at a price which shall not exceed the sum of:
 - (A) The original cost to the purchaser;
 - (B) The cost of any improvements added by the purchaser; and
 - (C) Simple interest on the purchasers' equity in the property at the rate of seven per cent a year.

The authority may purchase the unit either: (1) outright, free and clear of all liens and encumbrances; or (2) by transfer subject to an existing mortgage.

If by outright purchase, the authority shall insure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the purchaser.

In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the purchaser to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In such cases, the amount to be paid to the purchaser by the authority shall be the difference between the above-mentioned price and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

- (2) After the end of the tenth year from the date of purchase, or execution of an agreement of sale, the purchaser may sell the unit and sell or assign the property to any person free from any price restrictions; provided that the purchaser shall be required to pay to the authority the sum of:
 - (A) The balance of any mortgage note, agreement of sale, or other amount owing to the authority;
 - (B) Any subsidy made by the authority or the State not counted as cost under section 359G-8 but charged to the dwelling unit by good accounting practice as determined by the authority whose books shall be *prima facie* evidence of the correctness of the cost; and
 - (C) Interest on the subsidy prescribed under subparagraph (B) above computed from the date of purchase, or execution of the agreement of sale, at the rate of seven per cent a year; provided that if any proposed sale or transfer will not generate an amount sufficient to pay the authority the sum as computed under paragraph (2) above the authority shall have the first option to purchase the dwelling unit at a price which shall not exceed the sum as computed under paragraph (1) above.
- (b) The restrictions prescribed in subsection (a) above may be waived if:
- (I) The purchaser wishes to transfer title to the dwelling unit and the property or lease by devise or through the laws of descent to a family

member who would otherwise qualify under rules established by the authority; or

(2) The authority determines, in accordance with adopted rules, that the sale or transfer of a dwelling unit, at a price and upon terms as it shall set, preserves the intent of this section without the necessity of the State to repurchase the unit; provided that the restrictions prescribed in subsection (a) above shall be reinstated after the transfer of title and shall be fully effective and applicable to the transferee.

(c) The restrictions prescribed in subsection (a) above shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder becomes the owner of a dwelling unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgagee under a mortgage covering a dwelling unit and land or leasehold interest encumbered by the first option to purchase in favor of the authority shall, prior to commencing mortgage foreclosure proceedings, notify the authority of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667. The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount which shall not exceed the sum of subparagraphs (a) (1) (B) and (C) and the purchaser's equity in the property.

(d) The provisions of this section shall be incorporated in any deed, lease, mortgage, agreement of sale, or other instrument of conveyance issued by the authority."

11. By adding a new section to read:

"Sec. 359G-9.3 Dwelling units; restrictions on use. (a) A dwelling unit purchased from the authority shall be occupied by the purchaser at all times.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in section 359G-9.2(a)(1), or 359G-9.2(a) (2), as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section."

12. Section 359G-10 is amended to read:

"Sec. 359G-10 Revolving fund. There is created a dwelling unit revolving fund. The funds appropriated for the purpose of this chapter and all moneys received or collected by the authority under the provisions of this chapter shall be deposited in the revolving fund. The proceeds in the fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of this chapter, for the necessary expenses in administering the chapter, and for carrying out the purposes of this chapter, including, but not limited to, the expansion of community facilities constructed in conjunction with

housing projects for elderly persons, and supplementing buildings costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects for the elderly."

13. Section 359G-10.1 is repealed.

14. Section 359G-10.5 is amended to read:

"Sec. 359G-10.5 Independent development of projects. (a) In any county, the authority may enter into agreements for housing projects with a private developer where a project was initiated by the private developer and in the authority's reasonable judgment is primarily designed for low-income housing. The agreement may provide for the housing to be placed under the control of the authority, or to be sold by the authority or to be sold to the authority as soon as the units are completed and shall contain such terms, conditions, and covenants as the authority, by rules made in conformity with this chapter and chapter 91 deems appropriate, and every agreement shall provide for the developer to furnish a performance bond, in favor of the authority, assuring the timely and complete performance of the housing project. Sureties on the bond must be satisfactory to the authority.

(b) Whenever the authority determines a developer to be eligible, it may accept its application for approval of a project provided the plans and specifications for the project and the terms of the agreement to be entered:

(1) Provide for economically integrated housing by stipulation and design; that not less than sixty per cent of the units shall be sold in price ranges established by the authority under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that the variously priced units shall not be segregated and shall be randomly dispersed throughout the project horizontally, and if applicable, vertically;

(2) Provide for the sale of all units in fee simple or in leasehold either to the authority or to the purchaser and in all cases subject to all of the provisions of section 359G-9.2; and

(3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which primarily designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use district, or appropriate in its situation and surroundings for more intensive or denser zoning.

(c) The authority may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The authority may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development, and improvement of the land and the construction, improvement, and sale of homes thereon; pro-

vided that the procedures in section 359G-4.1(1), (2), and (3) have been satisfied."

15. Section 359G-11 is amended to read:

"Sec. 359G-11 Private development of projects. (a) The authority may enter into contracts with any eligible bidder to provide for the construction of urgently needed housing for the purpose of providing suitable living accommodations for persons of low income, including elderly persons of low income, or students or faculty of low income of institutions of higher education on lands owned or leased by the State and situated on suitable sites. Any such contract shall provide that the housing or housing project shall be placed under the control of the authority, as soon as the unit is available for occupancy. Any such contract shall also provide that the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the authority, when the housing has been completed. Any such contract shall contain such terms and conditions as the authority may determine to be necessary to protect the interests of the State. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with sureties satisfactory to the authority, and the furnishing of such bonds shall be deemed a sufficient compliance with the provisions of law and no additional bonds shall be required under law. Before the authority shall enter into any contract as authorized by this section for the construction of housing, it shall invite the submission of competitive bids after advertising in the manner prescribed by law.

(b) Notwithstanding any other provision of law, the authority is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage guaranty under this chapter and established by this section, and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments of such mortgagors; and to make payments thereon. All housing facilities placed under the control of the authority pursuant to the provisions of this section shall be deemed to be housing facilities under the jurisdiction of the State.

(c) On request by the authority, the attorney general shall furnish to the authority, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the attorney general is that the title to such property is good and sufficient, the authority is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, against any losses that may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured shall be used for title search and title insurance costs; provided that if the authority determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the authority may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any determination by the authority under the foregoing proviso shall be set forth in writing, together with the reasons therefor.

(d) The State shall be authorized to guarantee the repayment of one hundred per cent of the principal and interest of loans from commercial lenders for

the purposes of this section pursuant to rules adopted by the authority which shall conform as closely as is possible to the practices of the federal housing administration in insuring loans under the Capehart Housing Act (Title 42, USC); provided that at no time shall the State's liability, contingent or otherwise, on such guarantees exceed \$10,000,000."

16. Section 359G-11.1 is amended to read:

"Sec. 359G-11.1 Interim financing of projects. (a) The authority may provide interim construction loans to qualified developers and nonprofit corporations whose projects for the development and construction of dwelling units qualify for any federal or state housing program for low income housing. In addition to the rate of interest charged on interim loans the authority may charge loan commitment fees, to be determined by rules adopted by the authority.

(b) The interim loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest in the land upon which the dwelling units are constructed. The authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and such other conditions consistent with the production and marketing of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project."

17. Section 359G-12 is amended by amending subsections (a) and (b) to read:

"(a) At the request of the authority the director of finance may guarantee the top twenty-five per cent of the principal balance of real property mortgage loans of qualified single-family or multi-family housing; a maximum of one hundred per cent of the principal balance of real property mortgage loans of qualified single-family housing under section 213 of the Hawaiian Homes Commission Act; the top twenty-five per cent of the principal balance of real property mortgage loans of single-family and multi-family housing developed under self-help housing programs; plus the interest due thereon, made to qualified borrowers by qualified private lenders; provided that at no time shall the State's liability, contingent or otherwise, on such guarantees exceed \$10,000,000. For the purposes of this section, the term "self-help housing program" means development or conservation of housing in which prospective homeowners have contributed labor, materials, or real property; which at least two-thirds of the participating homeowners are qualified by income for assistance under this chapter; and which is carried out under sponsorship of a nonprofit community organization.

(b) The loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest of the borrower in the single-family or multi-family dwelling owned and occupied by the borrower and his permitted assigns. Private lenders shall include all banks, savings and loan associations, mortgage companies, and other qualified companies and trust funds whose business includes the making of loans in the State."

18. Section 359G-15 is amended to read:

"Sec. 359G-15 Exemption from general excise tax. Notwithstanding any

other law to the contrary, all rents and proceeds received from housing or housing projects, including all gross proceeds received by contractors for the construction of such housing or housing projects, developed pursuant to section 359G-6 and section 359G-11 shall be exempt from general excise or receipts taxes. At the request of the authority, the department of taxation shall exempt such items from general excise or receipts taxes for projects developed pursuant to section 359G-10.5 and section 359G-11.1. A claim for such exemption shall be filed with the director of taxation pursuant to rules adopted by the director of taxation."

19. Section 359G-16 is amended to read:

"Sec. 359G-16 Downpayment loans. (a) The authority may make direct downpayment loans to qualified borrowers. The downpayment loan to any borrower shall not exceed thirty per cent of the purchase price of the residential property or \$15,000, whichever is less.

(b) The repayment of every downpayment loan shall be secured by a duly recorded second mortgage executed by the borrower to the State on the residential property purchased with the downpayment loan.

(c) The principal of the downpayment loan, together with accrued interest, shall be repaid by the borrower in such installments as determined by the authority over a period not exceeding forty years. The period over which the principal and interest shall be paid need not coincide with the period over which the loan from the mortgage lender for the balance of the purchase price must be repaid. The borrower may repay the whole or any part of the unpaid balance of the downpayment loan, plus accrued interest, at any time without penalty.

(d) The authority may secure the services of the mortgage lender who loans to the borrower the balance of the purchase price of the residential property or the services of any other mortgage lender doing business in the State to collect, in behalf of the State, the principal and interest of the downpayment loan and otherwise to service the downpayment loan, for a servicing fee not in excess of then prevalent loan servicing fees. For this purpose, the authority may assign the second mortgage held by it to secure the repayment of the downpayment loan to such mortgage lender."

20. Section 359G-17 is amended to read:

"Sec. 359G-17 Qualifications for downpayment loan. (a) No person shall be qualified for a downpayment loan, unless he:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Is accepted by a mortgage lender as a person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made; and
- (6) Has the financial capacity to repay the downpayment loan.

(b) No person who owns in fee simple or in leasehold any other residential property within the State shall be eligible to become a borrower under this

ACT 225

section. A person shall be deemed to own a residential property if he, his spouse or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) owns such residential property.”

21. Section 359G-20 is repealed.

22. Section 359G-21 is amended to read:

“Sec. 359G-21 Participation in loans. The authority may participate up to fifty per cent of the principal amount of a loan made to a qualified borrower by a mortgage lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of a residential property; provided that at no time shall the State's total outstanding share exceed the sum of \$10,000,000.”

23. Section 359G-22 is amended to read:

“Sec. 359G-22 Loans qualifying for participation loans. Except as otherwise provided, the requirements for a loan to qualify under this part shall be the same as those prescribed for loans qualifying for mortgage loan guarantee under section 359G-12. The private lender's share of the loan shall bear interest at a rate not more than one and one-half per cent higher than the interest on the State's share. The first mortgage document shall be held by the private lender. Division of interest in the collateral shall be in proportion to the participation of the State and the private lender.”

24. Section 359G-29 is repealed.

25. Section 359G-30 is amended to read:

“Sec. 359G-30 Arbitrage provision; interest rate. (a) Any other provision of law to the contrary notwithstanding, neither the authority nor the director of finance shall make loans or purchase mortgages from the proceeds of general obligation bonds of the State or from a revolving fund established or maintained from the proceeds of such bonds, at a rate of interest which would cause any general obligation bond of the State to be an “arbitrage bond,” as defined in subsection (d) (2) of section 103 of the Internal Revenue Code of 1954 of the United States of America as now in effect, subject to treatment under subsection (d) (1) of such section 103 as an obligation not described in subsection (a) (1) of said section 103.

(b) The rates of interest on loans made under this chapter shall be established by the authority, with the approval of the director of finance, after each sale of general obligation bonds of the State, the proceeds of which are to be used for the purposes of this chapter. In the event that no such sale intervenes in a twelve-month period after the last rate fixing, the authority may review the then existing rates on loans made under this chapter and retain the existing rate or, with the approval of the director of finance, establish different rates.

(c) The director of finance shall approve such rates, so as to produce up to but not in excess of the maximum yield to the State permitted under such section 103(d) (2) of the United States Internal Revenue Code of 1954, on the assumption that the general obligation bonds, the proceeds of which are to be used for the purposes of this chapter, would otherwise be “arbitrage bonds” under that section were such maximum yield to be exceeded. The establishment of the rates of interest shall be exempt from chapter 91.”

26. Section 359G-31 is amended to read:

"Sec. 359-31 Commercial, industrial, and other uses. (a) In connection with the development of any residential units under this chapter the authority may also develop commercial, industrial, and other properties if it determines that such uses can be an integral part of the development and can help to preserve the life styles of the purchasers of residences in the development. The authority may designate any portions of the developments as for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto including the power to by-pass statutes, ordinances, charter provisions and rules of any governmental agency pursuant to section 359G-4.l. For this purpose the authority may use any of the funds authorized under this chapter.

(b) The authority shall establish rules pursuant to chapter 91 which shall provide the manner of designation of such uses and shall provide that any commercial, industrial, or other properties so developed shall be sold or leased at cost or at economic rents or sales prices. Sale or lease shall be made at cost to owners of commercial, industrial, or other facilities displaced by the authority. All other leases or sales shall be at economic rents or sales prices determined by the authority, after appraisal, to be consistent with rents or sales prices in similar locations or terms. The net proceeds of all such sales or leases, less costs to the authority, shall be deposited in the dwelling unit revolving fund.

The rules may also provide that any commercial property so developed and sold or leased may during the first twenty years after its purchase be resold or assigned only to the authority at the original purchase price plus the cost of any improvements made by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year. Rules may also provide that ownership of the commercial property cannot be separated from ownership of the residential property in connection with which it was sold or leased."

SECTION 5. Chapter 359G, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"Sec. 359G- Housing information system. (a) The authority shall, with the assistance of other agencies of the State and its political subdivisions with related responsibilities, develop and maintain a housing information system. The system shall make available current information as to housing conditions, needs, supply, characteristics, developments, trends, and federal housing programs.

(b) In establishing and maintaining the information system, the authority shall assemble necessary and appropriate information, including but not limited to statistics and research developed by agencies of the United States, the State, the counties, private research organizations, nonprofit community groups, trade associations, including those of the construction and real estate industries, departments, and individuals at the University of Hawaii.

(c) The information system may be used by housing researchers, planners, administrators, and developers, and shall be coordinated with other housing research efforts. The authority shall maintain a current supply of information, including means to gather new information through surveys, contracted research and investigations, and shall by rule under chapter 91 provide for access to the information system at reasonable rates on an equitable basis.

Sec. 359G- Housing design research. (a) The authority may, and is encouraged to conduct, or cause to be conducted, research on housing needs, materials, design, and technology, and should develop means for applying the findings of such investigation to dwelling unit projects created under this chapter.

(b) Such studies should include, but not be limited to, the following subjects:

- (1) Sociocultural investigation of the housing and community utilization, preferences, and needs of residents within the housing need classification of this chapter;
- (2) Research and development of innovative technology for more efficient, low cost building construction, and operation through application of building systems, materials, and energy and resource conservation;
- (3) Investigation of the applicability of locally produced building materials and systems to dwelling unit construction;
- (4) Investigation of new forms of project construction, maintenance, operation, and ownership, involving tenants, homeowners, financing agencies, and others;
- (5) Other necessary and appropriate research areas related to lowering the long-term costs of housing, conserving resources, or creating communities best suited to the needs of residents.”

SECTION 6. The development projects manager, sales manager, finance manager and housing program analyst employed under the authority of section 359G-3, Hawaii Revised Statutes, prior to the effective date of this Act and still so employed on such date shall be accorded all the rights, benefits, and privileges as of the effective date of this Act. Such rights and privileges shall include seniority, prior service credit for retirement purposes, vacation and sick leave credit, and salary level, and each such employee shall become a civil service employee without necessity of examination.

SECTION 7. No officer of the State having tenure shall suffer any loss of salary, prior service credit, vacation, sick leave, or other employee benefits or privileges as a consequence of this Act.

Although an office or position held by an officer having tenure is abolished, the officer shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 9. This Act shall take effect upon approval.

(Approved June 9, 1976.)

*Edited accordingly.

ACT 226

H.B. NO 2100-76

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1975,
to June 30, 1977.

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

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1976.

SECTION 2. This Act amends Act 195, Session Laws of Hawaii 1975.

SECTION 3. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in section 3, Act 195, Session Laws of Hawaii 1975, for the following programs, are amended to read as follows:

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY C O D 1975-76 E	FY C O D 1976-77 E	Total Biennium C O D 1975-77 E
A. ECONOMIC DEVELOPMENT						
1	COMMERCE AND INDUSTRY	PED 102				
	Operating		PED	17.00*	21.00*	21.00*
			PED	1,331,995A	1,635,849A	2,967,844A
			PED	150,000B	175,000B	325,000A
3	TRADE AND FINANCE	PED 105				
	Operating		PED	7.00*	6.00*	6.00*
			PED	170,319A	170,935A	341,254A
5	TOURISM	PED 113				
	Investment: Capital		PED	4,000,000C	C	4,000,000C
	Operating		PED		5.00*	5.00*
			PED	1,799,000A	2,320,759A	4,119,759A
			PED	628,000R	658,000R	1,286,000R
			PED	15,000X	15,000X	30,000X
10	Commercial Fishery	LNR 153				
	Operating		LNR	11.71*	11.71*	11.71*
			LNR	233,601A	257,365A	490,966A
			LNR	1.23*	1.23*	1.23*
			LNR	19,634B	19,719B	39,353B
			LNR	2.16*	2.16*	2.16*
	Investment: Capital		LNR	31,756N	31,813N	63,569N
			LNR	110,000C	C	110,000C
11	Plant Quarantine	AGR 121				
			AGR	38.50*	39.50*	39.50*
			AGR	581,012A	591,537A	1,172,549A
			AGR	212,871T	254,576T	467,447T
16	Forestry -- Products Development	LNR 172				
	Operating		LNR	10.00*	10.00*	10.00*
			LNR	266,364A	262,258A	528,622A
			LNR	28,000N	28,000N	56,000N

17	Distribution Systems Improvement for Agr	AGR	151		38.00*	36.00*	36.00*
	Operating			AGR	667,679A	681,294A	1,348,973A
				AGR	125,000B	150,000B	275,000B
				AGR	14,400N	14,400N	28,800N
				AGR	4,500X	4,500X	9,000X
24	Office of the Gov -Gnrl Suppt for Econ D	GOV	109		1.00*	1.00*	1.00*
	Operating			GOV	622,329A	696,673A	1,319,002A
B. EMPLOYMENT							
7	Wages, Hours and Compensation	LBR	151		21.30*	21.30*	21.30*
	Operating			LBR	317,101A	319,062A	636,163A
12	Non-Work Connected Disabilities	LBR	182		23.00*	23.00*	23.00*
	Operating			LBR	376,538A	373,838A	750,376A
					10,000B	12,000B	22,000B
13	Vocational Rehabilitation	SOC	802		21.40*	21.40*	21.40*
	Operating			SOC	729,000A	803,957A	1,532,957A
				SOC	77,000B	77,000B	154,000B
					90,60*	90,60*	90,60*
	Investment: Capital			SOC	2,989,404N	3,052,463N	6,041,867N
				AGS	441,000C	C	441,000C
14	DLIR—Data Gathering Research and Analys	LBR	901		7.40*	7.40*	7.40*
	Operating			LBR	120,100A	117,330A	237,430A
					30,90*	30,90*	30,90*
				LBR	583,873N	593,630N	1,177,503N
15	CMFE—Data Gathering, Research and Analys	GOV	801		6.00*	9.00*	9.00*
	Operating			GOV	153,616A	154,941A	308,557A
				GOV	37,756N	37,748N	75,504N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY 1975-76 C O D E	FY 1976-77 C O D E	Total Biennium C O D E
C. TRANSPORTATION						
17	Honolulu Harbor Facilities and Services	TRN 301		133.00*	141.00*	141.00*
	Operating		TRN	3,744,458B	3,962,623B	7,707,081B
	Investment: Capital		TRN	470,000B	B	470,000B
			TRN	3,647,000D	D	3,647,000D
27	General Administration for Water Trans F	TRN 493		26.75*	26.75*	26.75*
	Operating		TRN	6,241,628B	8,351,055B	14,592,683B
36	Overall Transp. Planning & Res for Trans	TRN 901		3.00*	8.00*	8.00*
	Operating		TRN	298,963B	375,427B	674,390B
38	Inter-Governmental Trans Central Commission	GOV 399		5.00*		
	Operating		GOV	91,544B		91,544B
D. ENVIRONMENTAL PROTECTION						
1	Solids, Liquids, and Gases	HTH 841		30.50*	32.00*	32.00*
	Operating		HTH	453,512A	543,590A	997,102A
			HTH	10.75*	10.00*	10.00*
			HTH	278,074N	265,526N	543,600N
3	Noise	HTH 845		10.50*	10.50*	10.50*
	Operating		HTH	157,952A	167,034A	324,986A
8	Inland Waters	LNR 404		11.00*	11.00*	11.00*
	Operating		LNR	722,470A	713,415A	1,435,885A
			LNR	404,000N	398,000N	802,000N
			LNR	12,900R	12,900R	25,800R
	Investment: Capital		LNR	362,000N	N	362,000N

9	Policy Dvlpmnt, Coord & Analys For Nat P	GOV	401		11.00*	11.00*	11.00*
	Operating			GOV	481,291A	485,015A	966,306A
10	LNR—Natural Physical Environment	LNR	906		28.00*	31.00*	31.00*
	Operating			LNR	576,407A	644,666A	1,221,073A
E. HEALTH							
2	Leprosy	HTH	111		102.00*	102.00*	102.00*
	Operating			HTH	1,934,704A	1,863,721A	3,798,425A
	Investment: Capital			HTH	96,000B	96,000B	192,000B
				AGS	1,100,000C	C	1,100,000C
3	Venereal Disease	HTH	121		7.00*	10.00*	10.00*
	Operating			HTH	143,893A	165,760A	309,653A
				HTH	7.00*	5.00*	5.00*
					110,368N	108,955N	219,323N
5	Supporting Services for Commun Diseases	HTH	139		6.00*	6.00*	6.00*
	Operating			HTH	93,600A	80,480A	174,080A
7	Prevention and Detection of Dental Diseases	HTH	141		34.00*	34.00*	34.00*
	Operating			HTH	389,752A	366,716A	756,468A
8	Treatment of Dental Diseases	HTH	142		9.00*	11.00*	11.00*
	Operating			HTH	153,596A	165,189A	318,785A
				HTH	1.20*	1.20*	1.20*
					19,997N	21,005N	41,002N
9	Prevntn & Detectn of Sensory Deficienci	HTH	171		8.00*	8.00*	8.00*
	Operating			HTH	124,941A	326,716A	451,657A
				HTH	1.00*	1.00*	1.00*
					13,995N	14,695N	28,690N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
18	Maui Memorial Hospital-- Hospital Care	HTH 221		88.87* 1,090,430A 181.63*	86.58* 1,238,732A 188.92*	86.58* 2,329,162A 188.92*
	Operating		HTH			
	Investment: Capital		HTH AGS	3,558,980B 2,849,000C	3,582,247B C	7,141,227B 2,849,000C
24	Kula Sanitorium- Health Care	HTH 323		99.00* 1,601,878A 85.00*	101.00* 1,650,242A 78.00*	101.00* 3,252,120A 78.00*
	Operating		HTH			
	Investment: Capital		AGS	1,422,000C	C	1,422,000C
25	Samuel Malchona Hospital- Hospital Care	HTH 352		100.00* 1,286,865A 33.00*	104.00* 1,469,504A 35.00*	104.00* 2,756,369A 35.00*
	Operating		HTH			
	Investment: Capital		HTH AGS	693,000B 232,000C	685,826B C	1,378,826B 232,000C
27	Routine Treatment Rehab Svcs for Mental H	HTH 420		311.00* 4,706,874A 6.50*	322.50* 4,860,025A 6.50*	322.50* 9,566,899A 6.50*
	Operating		HTH			
	Investment: Capital		HTH AGS	1,194,545N 1,709,000C	1,254,421N C	2,448,966N 1,709,000C
29	DOH-- Highly Intensv Treat Svcs for MH	HTH 440		109.50* 1,287,383A	108.50* 1,379,841A	108.50* 2,667,224A
	Operating		HTH			
33	Staff Development for Mental Health	HTH 494		3.00* 55,108A 1.00*	3.00* 61,684A 1.00*	3.00* 116,792A 1.00*
	Operating		HTH			
				25,917N	27,238N	53,155N

34	General Administration for Mental Health	HTH	495		139.00*	143.00*	143.00*
	Operating			HTH	2,036,352A	2,228,846A	4,265,198A
35	Early Identification & Treatment for MR	HTH	595		42.60*	60.60*	60.60*
	Operating			HTH	977,698A	1,498,174A	2,475,872A
				HTH	34.40*	34.40*	34.40*
				HTH	655,853N	657,135N	1,312,988N
36	Community Based Svcs for Mentally Retard	HTH	501		30.00*	35.00*	35.00*
	Operating			HTH	436,517A	787,558A	1,224,075A
				HTH	36.00*	36.00*	36.00*
	Investment: Capital			AGS	494,520N	504,217N	998,737N
				AGS	25,000C	C	25,000C
37	Waimano Training School and Hospital	HTH	511		466.00*	564.00*	564.00*
	Operating			HTH	5,425,181A	6,447,067A	11,872,248A
				HTH	21.00*	21.00*	21.00*
	Investment: Capital			AGS	329,221N	337,346N	666,567N
				AGS	890,000C	C	890,000C
38	Gen Adm for Mental Retardation	HTH	594		12.00*	20.00*	20.00*
	Operating			HTH	166,112A	237,977A	404,089A
				HTH	6.00*	6.00*	6.00*
				HTH	93,377N	95,645N	189,022N
39	Vector Control	HTH	601		87.00*	87.00*	87.00*
	Operating			HTH	1,030,920A	1,028,748A	2,059,668A
				HTH	6,000T	6,000T	12,000T
				HTH	18,268X	19,072X	37,340X
41	Drinking Water Quality	HTH	621		1.00*	4.00*	4.00*
	Operating			HTH	16,883A	56,578A	73,461A
						50,000N	50,000N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	C O D		Total Biennium C O D
				FY 1975-76 E	FY 1976-77 E	
42	Public Sanitation	HTH 631		57.00*	57.00*	57.00*
	Operating		HTH	841,806A	838,287A	1,680,093A
46	Public Health Nursing Services	HTH 902		123.00*	126.00*	126.00*
	Operating		HTH	1,722,531A 7.00*	1,793,445A 4.00*	3,515,976A 4.00*
			HTH	97,383N	48,590N	145,973N
50	Prog Planng, Eval & Budgeting for Health	HTH 905		6.00*	6.00*	6.00*
	Operating			95,951A	81,729A	177,680A
51	Comprehensive Health Planning	HTH 906		2.00*	6.00*	6.00*
	Operating		HTH	67,332A 14.00*	121,286A 18.00*	188,618A 18.00*
			HTH	280,244N	363,714N	643,958N
52	Department of Health—Administration	HTH 907		96.00*	99.00*	99.00*
	Operating		HTH	1,690,609A 9.00*	1,867,405A 10.00*	3,558,014A 10.00*
			HTH	251,517B 3.00*	260,134B 3.00*	511,651B 3.00*
	Investment: Capital		HTH	36,847N	39,079N	75,926N
			AGS	165,000C	C	165,000C
54	Emergency Medical and Health Services	HTH 910		3.00*	3.00*	3.00*
	Operating		HTH	127,663A 4.00*	160,682A 7.00*	288,345A 7.00*
			HTH	170,244N	120,645N	290,889N

F. SOCIAL PROBLEMS

26	Private Housing Augmentation Operating	SOC	222	SOC		200,000A	200,000A
					15.00*	17.00*	17.00*
				AGS	386,917B 300,000B	478,795B B	865,712B 300,000B
	Investment: Capital						
28	DSSH—Professional Health Services Operating	SOC	231	SOC	9,440,987A	12,718,165A	22,159,152A
						10,418,165A†	19,859,152A†
					7,346,853N	9,840,906N	17,187,759N
34	Other Related Health Costs Operating	SOC	234	SOC	1,363,223A 1,115,364N	1,700,767A 1,229,538N	3,063,990A 2,344,902N
37	DSSH—Eligibility Determination Operating	SOC	236		234.67*	304.99*	304.99*
				SOC	2,515,318A 118.23* 918,876N	3,555,659A 164.91* 1,527,890N	6,070,977A 164.91* 2,446,766N
40	Hawaii Office of Economic Opportunity Operating	GOV	863	GOV	636,079A 7.00*	663,437A 7.00*	1,299,516A 7.00*
				GOV	131,098N	131,098N	262,196N
41	Progressive Neighborhoods Program Operating	GOV	862		4.00*	6.00*	6.00*
				GOV	1,957,526A 64,497N	2,190,387A 66,624N	4,147,913A 131,121N
42	Commission on Children and Youth Operating	GOV	861		6.00*	6.00*	6.00*
				GOV	120,166A	122,492A	242,658A
44	Commission on Aging Operating	BUF	602		1.00*	1.00*	1.00*
				BUF	616,464A 3.00*	1,225,365A 3.00*	1,841,829A 3.00*
				BUF	1,352,670N	1,550,000N	2,902,670N

† Vetoed as indicated.

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	C O D			Total Biennium C O D
				FY 1975-76 E	FY 1976-77 E	1975-77 E	
46	General Administration	SOC 901		58.92*	63.92*	63.92*	
	Operating		SOC	1,394,581A	1,078,339A	2,472,920A	
				25.68*	25.68*	25.68*	
			SOC	487,757N	479,793N	967,550N	
G. FORMAL EDUCATION							
1	Elementary	EDN 102		4,102.00*	4,091.00*	4,091.00*	
	Operating		EDN	53,409,489A	52,786,398A	106,195,887A	
	Investment: Capital		EDN	11,000,000N	12,500,000N	23,500,000N	
			AGS	12,380,000C	C	12,380,000C	
2	Intermediate	EDN 103		1,116.50*	1,112.00*	1,112.00*	
	Operating		EDN	17,109,096A	17,669,866A	34,778,962A	
	Investment: Capital		AGS	927,000C	C	927,000C	
3	High	EDN 104		2,240.50*	2,200.50*	2,200.50*	
	Operating		EDN	35,620,830A	34,738,081A	70,358,911A	
	Investment: Capital		EDN	10,000B	10,000B	20,000B	
			EDN	870,870N	899,312N	1,770,182N	
			AGS	8,991,000C	C	8,991,000C	
5	Compensatory Education	EDN 202		103.00*	108.00*	108.00*	
	Operating		EDN	3,014,354A	3,317,332A	6,331,686A	
			EDN	7,627,457N	8,161,748N	15,789,205N	
7	Curriculum Services	EDN 302		92.50*	91.50*	91.50*	
	Operating		EDN	2,729,290A	2,775,110A	5,504,400A	
			EDN	21,464B	22,242B	43,706B	
			EDN	1,283,874N	1,310,408N	2,594,282N	

19	Physical Plant Operation & Maintenance	EDN	505				
	Operating			928.60*	943.60*	943.60*	
20	Physical Plant Operation & Maintenance	AGS	807	EDN	11,919,039A	12,535,605A	24,454,644A
	Operating			218.00*	218.00*	218.00*	
22	School Administration	EDN	507	AGS	8,540,930A	4,148,936A	12,689,866A
	Operating			817.00*	834.00*	834.00*	
25	Public Libraries	EDN	602	EDN	13,552,381A	14,280,306A	27,832,687A
	Operating			406.45*	411.95*	411.95*	
	Investment: Capital			6,153,097A	6,341,178A	12,494,275A	
				48,644N	36,556N	85,200N	
26	Instruction—UOH, Manoa	UOH	101	AGS	598,000C	C	598,000C
	Operating			1,516.59*	1,525.59*	1,525.59*	
				28,326,861A	29,624,578A	57,951,439A	
				25.83*	25.83*	25.83*	
				3,395,000B	3,462,000B	6,857,000B	
				7.15*	7.15*	7.15*	
	Investment: Capital			UOH	1,259,266N	869,945N	2,129,211N
				AGS	4,107,000C	C	4,107,000C
27	Organized Research—UOH Manoa	UOH	102				
	Operating			419.82*	424.82*	424.82*	
				UOH	8,949,845A	9,220,795A	18,170,640A
				3.00*			
				UOH	148,231B	50,000B	198,231B
					34.42*	34.42*	34.42*
				UOH	739,715N	739,715N	1,479,430N
	Investment: Capital			AGS	2,828,000C	C	2,828,000C
28	Public Service—UOH Manoa	UOH	103				
	Operating			105.31*	106.31*	106.31*	
				UOH	2,206,213A	2,202,265A	4,408,478A
					11.00*	11.00*	11.00*
				UOH	884,145B	917,121B	1,801,266B
					43.64*	43.64*	43.64*
				UOH	798,649N	798,649N	1,597,298N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
29	Academic Support—UOH Manoa	UOH 104				
	Operating		UOH	398.32* 7,240,021A 10.00*	401.32* 7,526,101A 10.00*	401.32* 14,766,122A 10.00*
			UOH	386,106B	398,587B	784,693B
			UOH	45,945N	48,702N	94,647N
	Investment: Capital		AGS	1,200,000C	C	1,200,000C
31	Institutional Support UOH, Manoa	UOH 106				
	Operating		UOH	417.00* 8,701,253A 13.00*	440.00* 8,516,509A 13.00*	440.00* 17,217,762A 13.00*
			UOH	353,558B	374,396B	727,954B
			AGS	950,000C	C	950,000C
32	Instruction—UOH, Hilo	UOH 201				
	Operating		UOH	131.00* 2,247,000A	147.00* 2,621,767A	147.00* 4,868,767A
			UOH	175,000B	185,000B	360,000B
	Investment: Capital		AGS	2,123,000C	C	2,123,000C
34	Academic Support—UOH, Hilo	UOH 204				
	Operating		UOH	21.00* 466,000A 5.00*	26.00* 496,580A 6.00*	26.00* 962,580A 6.00*
			UOH	83,000B	89,000B	172,000B
	Investment: Capital		AGS	3,340,000C	C	3,340,000C
36	Institutional Support—UOH, Hilo	UOH 206				
	Operating		UOH	21.00* 514,000A	22.00* 537,177A	22.00* 1,051,177A
			UOH	6,500B	8,000B	14,500B
	Investment: Capital		AGS	750,000C	C	750,000C
			AGS	565,000E	E	565,000E

37	Instruction—Honolulu Community College	UOH	301		118.00*	126.00*	126.00*
	Operating			UOH	1,818,309A	2,037,986A	3,856,295A
				UOH	80,000B	80,000B	
				UOH	100,000N	100,000N	200,000N
	Investment: Capital			AGS	3,204,000C	C	3,204,000C
39	Academic Support—Honolulu Community Col	UOH	303		24.00*	28.00*	28.00*
	Operating			UOH	350,754A	397,508A	748,262A
41	Institutional Support—Honolulu CC	UOH	305		27.00*	32.00*	32.00*
	Operating			UOH	565,540A	639,074A	1,204,614A
				UOH	50,000B	25,000B	75,000B
	Investment: Capital			AGS	340,000C	C	340,000C
				AGS	188,000E	E	188,000E
44	Academic Support—Kapiolani Community Col	UOH	313		17.00*	21.00*	21.00*
	Operating			UOH	326,122A	417,926A	744,048A
46	Institutional Support—Kapiolani CC	UOH	315		25.00*	27.00*	27.00*
	Operating			UOH	570,388A	638,000A	1,208,338A
				UOH	3,00*		
	Investment: Capital			AGS	179,267B	3,600B	182,867B
					3,208,000C	C	3,208,000C
47	Instruction—Leeward Community College	UOH	321		152.50*	153.50*	153.50*
	Operating			UOH	2,508,526A	2,633,009A	5,141,535A
				UOH	2,00*		
				UOH	193,512B	128,675B	322,187B
				UOH	40,000N	40,000N	80,000N
	Investment: Capital			AGS	996,000C	C	996,000C
48	Public Service—Leeward CC	UOH	322		4.00*	5.00*	5.00*
	Operating			UOH	99,840A	96,545A	196,385A
				UOH	19,000B	21,000B	40,000B

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	C O D		Total Biennium 1975-77	C O D
				FY 1975-76	E		
51	Institutional Support— Leeward CC	UOH 325		45.50*		45.50*	45.50*
	Operating		UOH	840,000A		857,558A	1,698,558A
54	Academic Support—Windward Community Coll	UOH 333		11.00*		13.00*	13.00*
	Operating		UOH	227,316A		276,431A	503,747A
56	Institutional Support—Windward CC	UOH 335		13.50*		13.50*	13.50*
	Operating		UOH	233,214A		263,775A	496,989A
			UOH	1.00*		1.00*	1.00*
			AGS	25,000B		30,000B	55,000B
	Investment: Capital			2,840,000C		C	2,840,000C
57	Instruction—Hawaii Community College	UOH 401		62.00*		69.00*	69.00*
	Operating		UOH	1,112,000A		1,302,606A	2,414,606A
			UOH	160,000N		160,000N	320,000N
	Investment: Capital		AGS	1,218,000C		C	1,218,000C
61	Institutional Support—Hawaii CC	UOH 405		12.00*		13.00*	13.00*
	Operating		UOH	219,500A		214,930A	434,430A
64	Academic Support—Maui Community College	UOH 503		12.00*		12.00*	12.00*
	Operating		UOH	225,346A		227,894A	453,240A
66	Institutional Support—Maui Community Coll	UOH 505		18.00*		18.00*	18.00*
	Operating		UOH	401,000A		415,000A	816,000A
			UOH	5.00*			
			AGS	44,527B		3,000B	47,527B
	Investment: Capital			340,000C		C	340,000C

69	Academic Support—Kauai Community College	UOH	603		11.00*	14.00*	14.00*
	Operating	UOH		238,000A		278,460A	516,460A
	Investment: Capital	AGS		448,000C		C	448,000C
71	Institutional Support—Kauai CC	UOH	605		13.50*	22.00*	22.00*
	Operating	UOH		309,604A		420,290A	729,894A
		UOH		4,000B		4,000B	8,000B
	Investment: Capital	AGS		1,373,000C		C	1,373,000C
72	Academic Support—UOH System-Wide Support	UOH	901		30.00*	35.00*	35.00*
	Operating	UOH		1,360,995A		1,552,950A	2,913,945A
		UOH		350,000T		350,000T	700,000T
73	Institutional Sppt	UOH, System-Wide Sp	903		194.50*	196.50*	196.50*
	Operating	UOH		3,629,145A		4,085,333A	7,714,478A
				42.50*		40.50*	40.50*
	Investment: Capital	UOH		1,327,000N		1,380,000N	2,707,000N
		AGS		250,000C		C	250,000C
74	Student Loans	BUF	807		20,000A	19,750A	39,750A
75	Western Interstate Commission for Higher Operating	GOV	807		281,000A	397,000A	678,000A

H. CULTURE AND RECREATION

1	Cultural History	BUF	802		2.00*	2.00*	2.00*
	Operating	BUF		59,776A		105,726A	165,602A
		BUF		5,000X		5,000X	10,000X
2	Hawaii Public Television	REG	701		26.00*	28.00*	28.00*
	Operating	REG		761,438A		906,565A	1,668,003A
		REG		202,842B		202,842B	405,684B
						164,000N	164,000N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY 1975-76 C D	FY 1976-77 C D	Total Biennium 1975-77 C D
3	LNR—Historical and Archaeological Places	LNR 801		18.30* 215,778A 2,090,000C	12.30* 246,931A C	12.30* 462,709A 2,090,000C
	Operating Investment: Capital		LNR LNR			
5	Aquaria	UOH 881		11.00* 171,000A	14.50* 218,860A	14.50* 389,860A
	Operating		UOH			
7	Performing and Visual Arts Events	BUF 881		5.00* 538,694A 350,000N 25,000R	7.00* 622,988A 375,000N 27,000R	7.00* 1,161,682A 725,000N 52,000R
	Operating		BUF BUF BUF			
8	Ethnic Group Presentations	AGS 818		25,000A	30,000A	55,000A
	Operating		AGS			
10	DOT—Ocean-Based Activities	TRN 801		30.50* 1,483,618B 2,529,000D	33.50* 1,531,281B D	33.50* 3,014,899B 2,529,000D
	Operating		TRN TRN			
11	LNR—Ocean-Based Activities	LNR 805		46.02* 687,427A 2.28* 48,160N 2,446,000C	52.62* 775,874A 2.68* 54,081N C	52.62* 1,463,301A 2.68* 102,241N 2,446,000C
	Operating		LNR			
	Investment: Capital		LNR LNR			
12	Spectator Events and Shows	BUF 889		367,902A 34.00* 978,000B 1,593,000C	757,151A 34.00* 534,186B C	1,125,053A 34.00* 1,512,186B 1,593,000C
	Operating		BUF			
	Investment: Capital		BUF AGS			

	I. PUBLIC SAFETY						
2	Hawaii State Prison	SOC	402		198.00*	198.00*	198.00*
	Operating			SOC	3,460,344A	3,607,899A	7,068,243A
	Investment: Capital			SOC	121,977B	107,782B	229,759B
				AGS	3,508,000C	C	3,508,000C
3	Adult Honor-Camps	SOC	403		36.00*	36.00*	36.00*
	Operating			SOC	800,991A	848,910A	1,649,901A
5	Interim Hawaii Comm Corr Fac	SOC	405		25.00*	26.00*	26.00*
	Operating			SOC	287,800A	338,040A	625,840A
	Investment: Capital			AGS	119,000C	C	119,000C
6	Interim Maui Comm Corr Fac	SOC	406		19.13*	20.13*	20.13*
	Operating			SOC	312,187A	382,858A	695,045A
13	General Adm: Confinement & Parole	SOC	493		14.00*	22.50*	22.50*
	Operating			SOC	301,909A	321,578A	623,487A
14	Criminal Justice Planning & Prg Implementat	GOV	893		3.30*	4.16*	4.16*
	Operating			GOV	370,298A	385,801A	756,099A
				GOV	7.70*	7.59*	7.59*
				GOV	2,962,470N	2,962,060N	5,924,530N
17	Prevention of Man-Made Disasters	DEF	111		42.50*	42.50*	42.50*
	Operating			DEF	700,668A	695,130A	1,395,798A
	Investment: Capital			DEF	9.00*	9.00*	9.00*
				AGS	164,993N	172,993N	337,986N
				AGS	244,000C	C	244,000C
				AGS	198,000N	N	198,000N

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY C O D 1975-76 E	FY C O D 1976-77 E	Total Biennium C O D 1975-77 E
				7.50*	7.50*	7.50*
18	Amelioration of Man-Made Disasters	DEF 112				
	Operating		DEF	238,801A 10.50*	284,757A 10.50*	523,558A 10.50*
	Investment: Capital		DEF AGS AGS	243,657N 33,000C 33,000N	231,041N C N	474,698N 33,000C 33,000N
J. INDIVIDUAL RIGHTS						
1	DOH Foods & Drugs—Testing & Certification	HTH 651				
	Operating		HTH	102,262A	160,865A	263,127A
3	Communication, Utilities, & Transportn S	REG 103				
	Operating		REG REG	781,699A 108,836X	916,579A 111,389X	1,698,278A 220,225X
4	Banking Services	REG 104				
	Operating		REG	379,591A	410,142A	789,733A
5	Insurance Services	REG 106				
	Operating		REG	526,847A	515,616A	1,042,463A
6	Professional, Vocational Personal Service	REG 105				
	Operating		REG	883,995A	901,292A 1.00* 13,540T	1,785,287A 1.00* 13,540T
9	Offc of Consumer Prot—Adv & Terms of S	GOV 110				
	Operating		GOV	390,724A	456,594A	847,318A

12	Labor & Industrial Relations Appeals Board	LBR	812		8.00*	8.00*	8.00*
	Operating			LBR	199,321A	192,358A	391,679A
14	Assistance in Criminal Actions	GOV	821		48.00*	57.00*	57.00*
	Operating			GOV	1,021,815A	1,234,271A	2,256,086A

K. GOVERNMENT-WIDE SUPPORT

1	Office of the Governor	GOV	100		32.00*	34.00*	34.00*
	Operating			GOV	1,019,825A	1,254,448A	2,274,273A
	Investment: Capital			AGS	3,000,000C	C	3,000,000C
2	Office of the Lieutenant Governor	LTG	100		21.00*	21.00*	21.00*
	Operating			LTG	745,150A	1,443,085A	2,188,235A
3	BUF-Prg Plannng, Analysis & Budgeting	BUF	101		84.00*	85.00*	85.00*
	Operating			BUF	1,967,639A	4,147,781A	6,115,420A
				BUF	4.00*	4.00*	4.00*
				BUF	85,000B	86,000B	171,000B
5	Land Use, Physical Plan and Coordination	PED	101		40.00*	48.00*	48.00*
	Operating			PED	873,894A	1,351,242A	2,225,136A
				PED		2.00*	2.00*
	Investment: Capital			PED	355,000N	C	355,000N
				PED	350,000C	N	350,000C
				PED	700,000N		700,000N
6	GOV-OTH Policy Development & Coordinat	GOV	102		11.00*	14.00*	14.00*
	Operating			GOV	543,688A	358,071A	901,759A
				GOV	25,000N	25,000N	50,000N
8	Property Tax Assessment	TAX	101		112.67*	113.67*	113.67*
	Operating			TAX	1,616,923A	1,633,266A	3,250,189A

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
9	Income Assessment and Audit	TAX 102		166.67*	167.67*	167.67*
	Operating		TAX	2,322,169A	2,335,966A	4,658,135A
10	Tax Collection	TAX 103		77.66*	82.66*	82.66*
	Operating		TAX	1,071,842A	1,044,603A	2,116,445A
11	Supporting Services—Revenue Collection	TAX 104		61.00*	65.00*	65.00*
	Operating		TAX	1,533,860A	2,283,234A	3,817,094A
13	Expenditure Examination	AGS 102		20.00*	21.00*	21.00*
	Operating		AGS	327,275A	336,370A	663,645A
15	Internal Post Audit	AGS 104		12.00*	18.00*	18.00*
	Operating		AGS	275,162A	338,164A	613,326A
17	Public Debt Service	BUF 112	BUF	90,128,917A	103,893,737A	194,022,654A
	Operating		BUF			
18	Legal Services	ATG 101		66.50*	71.50*	71.50*
	Operating		ATG	1,519,568A	1,760,004A	3,279,572A
			ATG	11.00*	11.00*	11.00*
			ATG	280,008X	294,010X	574,018X
19	Electronic Data Processing Services	BUF 131		190.20*	208.20*	208.20*
	Operating		BUF	4,535,946A	4,759,447A	9,295,393A
			BUF	16.80*	16.80*	16.80*
			BUF	655,850X	665,850X	1,321,700X

20	Records Management	AGS	111		21.00*	23.00*	23.00*
	Operating			AGS	257,822A	285,125A	542,947A
21	Work Force Attraction and Selection	PER	101		20.00*	21.00*	21.00*
	Operating			PER	330,640A	327,364A	658,004A
22	Classification	PER	111		17.00*	17.00*	17.00*
	Operating			PER	258,291A	281,298A	539,589A
23	Employee Compensation	PER	112		2.00*	2.00*	2.00*
	Operating			PER	35,420A	39,159A	74,579A
24	Work Force Effectiveness	PER	121		25.00*	23.00*	23.00*
	Operating			PER	433,615A	391,976A	825,591A
25	Collective Bargaining Services	PER	131		4.00*	6.00*	6.00*
	Operating			PER	79,554A	111,880A	191,434A
26	Supporting Services—Personnel Services	PER	191		9.00*	14.00*	14.00*
	Operating			PER	203,834A	267,869A	471,703A
29	Public Lands Management	LNR	101		28.00*	34.00*	34.00*
	Operating	LNR			518,721A	538,493A	1,057,214A
	Investment: Capital	LNR			2,570,000C	C	2,570,000C
		LNR			245,000D	D	245,000D
34	Custodial Services	AGS	231		138.50*	141.50*	141.50*
	Operating	AGS			2,778,697A	3,026,371A	5,805,068A
		AGS			168,000X	172,000X	340,000X
36	Building Repairs and Alterations	AGS	233		23.00*	23.00*	23.00*
	Operating	AGS			1,465,604A	383,039A	1,848,643A

APPROPRIATIONS

Item No.	Program	Program ID	Exp. Agy.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
44	Capital Building Security	ATG 801		26.00*	36.00*	36.00*
	Operating		ATG	340,204A	435,259A	775,463A
47	Grants-in-Aid to Counties	SUB 101				
	Operating		LNR	19,447,551A	25,347,551A	44,795,102A

SECTION 4. Part III, Act 195, Session Laws of Hawaii 1975, is amended:

(1) By amending section 4 to read:

“**SECTION 4.** Provided, that in the Tourism Program (PED 113), the expending agency shall not expend an amount exceeding \$1,799,000 in State funds for fiscal year 1975–76 and \$1,998,300 for fiscal year 1976–77 for the purpose of tourism promotion by contract or contracts. Provided further that \$83,000 appropriated under PED 113 are additional funds for Aloha Week activities and New York promotional activities and shall be expended by the Hawaii Visitors Bureau under contract with the State.”

(2) By adding a new section to read:

“**SECTION 4A.** Provided that of the general fund appropriation for fiscal year 1976–77 to the Tourism Program (PED 113), \$72,459, 5 positions shall be used by the Department of Planning and Economic Development to coordinate the various tourist functions within government and private industry, and any other tourist-related activities; \$200,000 shall be used for the development of a 10-year Tourism Growth Plan; and \$32,300 shall be used to extend the Visitor Data Survey to include east-bound visitors to Hawaii.”

(3) By adding a new section to read:

“**SECTION 6A.** Provided that of the general fund appropriation for fiscal year 1976–77 to the Commerce and Industry program (PED 102), \$150,000 shall be expended for the coordination of aquaculture programs in the State and to develop an aquaculture master plan for the State.”

(4) By adding a new section to read:

“**SECTION 6B.** Provided, that of the \$324,000 to be allocated to the Hawaii Natural Energy Institute (PED 102) in Part V of this Act, a total of \$224,000 shall be used for the various needs of the Hawaii Natural Energy Institute and \$100,000 shall be used to fund an Energy Management Program (PED 102), which will conduct energy management conservation projects in State facilities that offer the potential for considerable savings in energy consumption.”

(5) By adding a new section to read:

“**SECTION 6C.** Provided that of the general fund appropriation for fiscal year 1976–77 to the Plant Pest Control Program (AGR 122), \$52,083 shall be used to control the Hamakua Pamakani.”

(6) By adding a new section to read:

“**SECTION 6D.** Provided that, should Act 151, Session Laws of Hawaii 1975, be amended to reflect a lapsing date of June 30, 1977, the sum of \$285,288 appropriated to the State Manpower Development and Training Program (LBR 111) for fiscal year 1976–77 shall not be expended.”

(7) By adding a new section to read:

“**SECTION 8A.** Provided, that of the appropriation for General Administration for Water Transportation (TRN 493), \$200,000 in fiscal year

1976-77 shall be used as a contingency fund for the payment of tort claims involving the Harbors Division, which are arbitrated, compromised, or settled for amounts not in excess of the deductible of the appropriate insurance policy of the Harbors Division, and for litigation purposes not provided for by the several insurance policies of the Harbors Division.”

(8) By adding a new section to read:

“SECTION 10A. Provided that of the appropriation for fiscal year 1976-77 to LNR-Natural Physical Environment (LNR 906), \$14,000 (1.5) shall be used for the Natural Area Reserve Systems Commission; provided further, that \$35,000 in general funds shall be used to match federal funds to carry out the Youth Conservation Corps program during fiscal year 1976-77.”

(9) By adding a new section to read:

“SECTION 11A. Provided that of the general fund appropriation for fiscal year 1976-77 to Prevention and Detection of Sensory Deficiencies (HTH 171), all school health aides shall be trained and utilized as screening technicians for the purpose of this program. Provided further, that the 6 audiologists are to be equitably distributed among Hawaii, Maui, Kauai, and Honolulu counties.”

(10) By adding a new section to read:

“SECTION 14A. Provided that out of the general fund appropriation for fiscal year 1976-77 to DOH-Highly Intensive Treatment for Mental Health (HTH 440), \$40,802 for the Awareness House, Inc. and \$35,251 for the Big Island Council on Addiction shall be allocated to the County of Hawaii.”

(11) By adding a new section to read:

“SECTION 14B. Provided that out of the general fund appropriation for Staff Development for Mental Health (HTH 494), \$6,000 shall be used for athletic clothing, appurtenances, and miscellaneous expenses at Hawaii State Hospital.”

(12) By adding a new section to read:

“SECTION 14C. Provided that out of the general fund appropriation to General Administration for Mental Health (HTH 495), \$19,332 (4.00) shall be used for janitorial services at Hawaii State Hospital.”

(13) By adding a new section to read:

“SECTION 15A. Provided, that of the general fund appropriation for Community Services for the Mentally Retarded (HTH 501), the sum of \$41,165 is intended for the Lanakila Crafts for activity programs for the developmentally disabled.”

(14) By adding a new section to read:

“SECTION 15B. Provided, that out of the general fund appropriation for Mental Retardation, the following amounts are appropriated in fiscal year 1976-77 pursuant to Consent Decree (Civil No. 43090): HTH 501—\$203,000; HTH 595—\$206,186 (16.00); HTH 511—\$321,744 (29.00); and HTH 594—\$62,009 (7.00).”

(15) By adding a new section to read:

“SECTION 17A. Provided that in the event an Executive Office on Aging is established through enabling legislation, all appropriations for BUF 602 shall be expended through that Office and positions identified with BUF 602 shall be assigned to that Office.”

(16) By adding a new section to read:

“SECTION 17B. Provided, that of the general fund appropriation for the Private Housing Augmentation Program (SOC 222), the sum of \$200,000 for fiscal year 1976-77 shall be used to replenish the Hawaii Development Revolving Fund in the Hawaii Housing Authority.”

(17) By adding a new section to read:

“SECTION 18A. Provided that out of the general fund appropriation for fiscal year 1976-77 to DSSH-Professional Health Services (SOC 231), \$2,300,-000 shall be used for the purpose of paying professional health care providers, under the medicaid program, 100 per cent of their usual and customary fees up to the seventy-fifth percentile; provided further, that \$58,000 of the total appropriation shall be used to cover group therapy services.”

(18) By adding a new section to read:

“SECTION 18B. Provided that out of the general fund appropriation for Other Related Health Costs (SOC 234), two categories of burial services, mortuary and cemetery, may be contracted for indigents.”

(19) By adding a new section to read:

“SECTION 24A. Provided that out of the general fund appropriation for fiscal year 1976-77 to General Administration (SOC 901), \$48,442 (5) shall be used to develop a quality control program for the general assistance program.”

(20) By adding a new section to read:

“SECTION 24B. Provided that in fiscal year 1976-77 no more than \$10,000 shall be used to administer the elderly credit and non-credit program (BUF 602).”

(21) By amending section 25 to read:

“SECTION 25. Provided, that for the biennium 1975-77 the School Health Services Project shall be expanded to include all elementary public schools in the State of Hawaii; provided further, that the school health services project shall be expanded to 53 additional elementary schools; provided further, that by fiscal year 1976-77 the project shall be expanded to include all public elementary schools in the state.”

(22) By amending section 29 to read:

“SECTION 29. Provided, that the appropriations for Elementary (EDN 102), Intermediate (EDN 103), and High (EDN 104) are intended for student enrollment projections of 175,795 for fiscal year 1975-76 and 174,712 for fiscal year 1976-77.”

ACT 226

(23) By amending section 33 to read:

“SECTION 33. Provided, that if the sum received by the Department of Education under Public Law 874, or any other public law which amends or supersedes Public Law 874 is less than \$11,000,000 for fiscal year 1975–76 and \$12,500,000 for fiscal year 1976–77, then the difference between \$11,000,000 for fiscal year 1975–76 and \$12,500,000 for fiscal year 1976–77 and the sum received for each respective year shall be appropriated to the Department of Education; provided, further, that if the sum received is greater than \$11,000,000 for fiscal year 1975–76 and \$12,500,000 for fiscal year 1976–77, then the appropriation to the Department of Education shall be reduced to the extent that the actual sum received exceeds \$11,000,000 and \$12,500,000 for each respective fiscal year.”

(24) By adding a new section to read:

“SECTION 35A. Provided, that the Department of Education may contract for a temporary position in Curriculum Services (EDN 302) to be funded within departmental appropriations, for the updating of the speech and hearing program and to provide coordination and monitoring of existing programs.”

(25) By amending section 48 to read:

“SECTION 48. Provided, that of the sum appropriated for Organized Research-UOH, Manoa (UOH 102) \$42,500 (2.00) for FY 1975–76 and \$42,500 (2.00) for FY 1976–77 shall be used to provide for planning, demonstration and evaluation projects for the Pan Pacific Education and Communication Experiments Satellite. The University of Hawaii may contract for services when carrying on projects in cooperation with international and other jurisdictions in the Pacific Basin.”

(26) By adding a new section to read:

“SECTION 51A. Provided, that of the general fund appropriation for fiscal year 1976–77 to Organized Research (UOH 102), \$100,000 (3.0) shall be used for staffing and operating expenses for the Kona Branch Experiment Station, and \$141,225 shall be used to provide matching funds for the Federal Cancer Control Demonstration Project.”

(27) By adding a new section to read:

“SECTION 51B. Provided, that of the general fund appropriation for Instruction (UOH 401), \$51,224 for fiscal year 1976–77 shall be used to provide equipment for the Trade and Vocational Programs.”

(28) By adding a new section to read:

“SECTION 51C. Provided, that of the general fund appropriation for Institutional Support (UOH 903), \$275,000 in fiscal year 1976–77 shall be used for student loans under the State Higher Education Loan Fund program.”

(29) By amending section 52 to read:

“SECTION 52. Provided, that \$25,000 in general funds in fiscal year 1975–76 and \$17,000 in general funds in fiscal year 1976–77 from the appropriation for Cultural History (BUF 802) shall be expended for the Hawaii Review Board.”

(30) By amending section 53 to read:

“SECTION 53. Provided, that the sum of \$12,704 in general funds in fiscal year 1975–76 and \$12,704 in fiscal year 1976–77 from the appropriation for Performing of Visual Arts Events (BUF 881) shall be expended to supplement personal services costs for proposed Program Specialist. Provided, further that the sum of \$5,507 in general funds in fiscal year 1975–76 and \$2,127 in fiscal year 1976–77 from the appropriation for Performing and Visual Arts Events (BUF 881) shall be expended for inter-island travel costs.”

(31) By amending section 54 to read:

“SECTION 54. Provided, that \$32,500 in general fund appropriation for fiscal year 1975–76 and \$39,750 in general fund appropriation for fiscal year 1976–77 in the Performing of Visual Arts Events Program (BUF 881) shall be allocated in the following manner: Philippine Heritage Council—\$22,750 in fiscal year 1975–76 and \$30,000 in fiscal year 1976–77; Statewide Music Workshops Program—\$8,000 in each fiscal year of the 1975–77 biennium; National Pen Women’s Club—\$250 in each fiscal year of the 1975–77 biennium; Hawaii Film Board—\$1,500 in each fiscal year of the 1975–77 biennium.”

(32) By amending section 55 to read:

“SECTION 55. Provided, that \$302,500 in fiscal year 1975–76 and \$315,000 in fiscal year 1976–77 in the Performing of Visual Arts Events Program (BUF 881) shall be allocated in the following manner: Honolulu Symphony—\$37,500 in fiscal year 1975–76 and \$100,000 in fiscal year 1976–77; Honolulu Youth Symphony—\$25,000 in each fiscal year of the 1975–77 biennium; Waianae Coast Arts Council, Inc.—\$60,000 in each fiscal year of the 1975–77 biennium; Kalihi-Palama Arts Council, Inc.—\$60,000 in each fiscal year of the 1975–77 biennium; Ensemble Players Guild—\$10,000 in each fiscal year of the 1975–77 biennium; Hawaii Performing Arts Co.—\$25,000 in each fiscal year of the 1975–77 biennium; Honolulu Theatre for Youth—\$85,000 in fiscal year 1975–76 and \$35,000 in fiscal year 1976–77.”

(33) By amending section 57 to read:

“SECTION 57. Provided, that the sum of \$55,000 appropriated for the biennium to the King Kamehameha Day Celebration Commission in the Ethnic Group presentations program (AGS 818) shall be allocated in the following manner: City and County of Honolulu—\$12,500 in fiscal year 1975–76 and \$15,000 in fiscal year 1976–77; County of Hawaii—\$6,000 in fiscal year 1975–76 and \$7,200 in fiscal year 1976–77; County of Kauai—\$3,000 in fiscal year 1975–76 and \$3,600 in fiscal year 1976–77; and County of Maui—\$3,500 in fiscal year 1975–76 and \$4,200 in fiscal year 1976–77.”

(34) By adding a new section to read:

“SECTION 57A. Provided, that of the sum appropriated to the Hawaii Public Television Program (REG 701), the sum of \$132,840 shall be expended for the following purposes:

\$77,840 for the production of the series “Rice and Roses”; \$55,000 to replace television transmission facilities, to acquire the necessary equipment to ^

ACT 226

maintain broadcasting operations at FCC-specified levels and to integrate basic production capabilities, contingent upon the receipt of \$164,000 federal matching funds.”

(35) By adding a new section to read:

“SECTION 57B. Provided, that \$50,000 in general funds in fiscal year 1976-77 for Cultural History (BUF 802) shall be used to contract the services of the Multi-Cultural Center.”

(36) By adding a new section to read:

“SECTION 57C. Provided, that for the Spectator Events and Shows (BUF 889), the general fund appropriation shall be reduced to the extent that special fund revenues exceed the amounts contained in this Act; provided further, that if the special fund revenues are not received as anticipated, then the difference between the amounts designated and the amounts received are hereby appropriated to Spectator Events and Shows (BUF 889).”

(37) By adding a new section to read:

“SECTION 57D. Provided, that the sum appropriated to spectator events and shows (BUF 889) a sum not to exceed \$5,000 shall be authorized by the Stadium Authority to be expended at the discretion of the Stadium Manager for promotion and other stadium purposes.”

(38) By adding a new section to read:

“SECTION 57E. Provided, that for LNR-Ocean-Based Activities (LNR 805), \$50,000 of general funds shall be used for the development of the Kapuku plan on a statewide basis.”

(39) By adding a new section to read:

“SECTION 61A. Provided that the sum of \$153,222 for Hawaii State Prison (SOC 402), Adult Honor Camp (SOC 403), Interim Hawaii Community Correctional Facility (SOC 405), and Interim Maui Community Correctional Facilities (SOC 406), shall be expended in order to compensate inmates at an average rate of fifty cents per hour. The following seven hour per day, five days per week formula is to be followed in order to accomplish the purposes of this section:

Grade	Percentage of Inmates	Hourly	Daily	Monthly	Yearly
I	10%	\$.63	\$4.41	\$88.20	\$1,058.40
II	20%	.50	\$3.50	\$70.00	\$ 840.00
III	35%	.38	\$2.66	\$53.20	\$ 638.40
IV	35%	.25	\$1.75	\$35.00	\$ 420.00”

(40) By adding a new section to read:

“SECTION 62A. Provided, that \$20,000 of the Correctional Industries Account of the Hawaii State Prison (SOC 402) be used for the purchase of 2 new printing presses for the correctional industries’ print shop facility.”

(41) By amending section 68 to read:

"SECTION 68. Provided, that of the appropriation made for General Administration—Confinement and Parole (SOC 493), \$37,837 (2.0) for the fiscal year 1975–76 and \$36,582 (2.0) for the fiscal year 1976–77 shall be used to plan and design a home visit and furlough program for expeditious implementation on a statewide basis and for other planning activities related to the corrections program, and that \$25,961 (8.5) for the fiscal year 1976–77 shall be used for the operating expenses of the Kauai Community Correctional Facility upon completion of its construction and the State take-over of its operation.

Provided, further, that the Department of Social Services and Housing shall report on the progress of the home visit and furlough program to the 1976 Regular Session of the legislature."

(42) By adding a new section to read:

"SECTION 70A. Provided, that of the sum appropriated to HTH 651, Foods & Drugs Testing & Certification, \$52,268 in general funds for fiscal year 1976–77 shall be used to establish and implement a monitoring program of shellfish production and marketing, inclusive of temporary positions to carry out the functions of the program."

(43) By adding a new section to read:

"SECTION 72A. Provided that out of the general fund appropriation for fiscal year 1976–77 to Banking Services (REG 104), \$30,301 (3) shall be used to upgrade and intensify the agency's examination of financial institution."

(44) By adding a new section to read:

"SECTION 75A. Provided, that of the general fund appropriation for fiscal year 1976–77 to the Office of the Governor (GOV 100), \$28,582 (2.0) shall be expended for the Affirmative Action Coordinator's Office and \$202,504 shall be expended for additional operating expenses of the Government Organization Commission."

(45) By deleting section 77.

(46) By adding a new section to read:

"SECTION 78A. Provided, that of the general fund appropriation for fiscal year 1976–77 to the Office of the Lieutenant Governor (LTG 100), \$381,750 shall be expended to provide voter assistance in minority languages pursuant to the Voter Rights Act amendments of 1975."

(47) By amending section 82 to read:

"SECTION 82. Provided, that of the general fund appropriation authorized for Legal Services (ATG 101), \$25,000 in each fiscal year shall be used for the payment of tort claims arbitrated, compromised or settled for amounts not in excess of \$2,000. Provided, further, that of the general fund appropriation authorized for Legal Services (ATG 101), \$157,000 in fiscal year 1975–76 and \$207,000 in fiscal year 1976–77 shall be used for litigation purposes. Provided further that \$75,000 (5.0) appropriated shall be utilized to hire additional attorney general deputies."

(48) By adding a new section to read:

ACT 226

"SECTION 87A. Provided, that of the sum appropriated to Program Planning, Analysis, Budgeting (BUF 101) the sum of \$2,434,000 in general funds for fiscal year 1976-77 shall be used to fund Act 164, SLH 1975, and Act 195, Section 79, SLH 1975, increment and longevity increases.

The above noted appropriations shall be allotted by the director of finance to the appropriate state agencies. Increases for officers and employees for whom pay increases are provided by this section and whose compensation is paid, in whole or in part, from federal funds or in part, from federal funds or from special funds of the State, shall be paid from the respective federal funds or special funds to the extent available."

(49) By adding a new section to read:

"SECTION 87B. Provided, that should legislation be enacted establishing a 60% real property tax assessment ratio, the Governor is authorized to release additional one-time grants-in-aid to the following counties up to the indicated amounts:

County of Hawaii	3,010,000A
County of Maui	1,900,000A
County of Kauai	990,000A

The purpose of such additional grants-in-aid is to assist these counties in adjusting to the anticipated loss of real property tax revenues below 1975-76 levels as a result of such legislation."

(50) By adding a new section to read:

"SECTION 87C. There is appropriated for Program Planning, Analysis, and Budgeting (BUF 101) the sums of \$888,026 in general fund, \$65,371 in federal funds, \$468,062 in special funds, and \$3,117 in other funds in fiscal year 1976-77, or so much thereof as may be necessary, which shall be used for normal incremental increases at rates under the wage board schedule existing on June 30, 1976 for employees included in Unit 1 and employees excluded from Unit 1 under collective bargaining pursuant to Chapter 89, Hawaii Revised Statutes; provided that incremental increases for said excluded employees shall be provided to the same extent and manner as comparable members of collective bargaining Unit 1; provided further that said incremental increases shall be offset against any increase that may be included in the Unit 1 wage board schedule effected by agreement for fiscal year 1976-77.

The above noted appropriations shall be allotted by the director of finance to the appropriate state agencies. Funds appropriated by this section that have not been expended or encumbered by June 30 of fiscal year 1976-77 shall lapse as of that date."

SECTION 5. Act 195, Session Laws of Hawaii 1975, is amended by adding thereto a new Part VA reading as follows:

"PART VA. SUPPLEMENTAL APPROPRIATIONS

SECTION 89A. The following sums or so much thereof as may be necessary are appropriated out of the general revenues of the State of Hawaii to fund the programs as designated during the fiscal year 1976-77 and are

supplemental to the sums appropriated for programs under Part V, Act 195, Session Laws of Hawaii 1975:

	FY 1976-77
ECONOMIC DEVELOPMENT	
To provide funds for the Young Farmers program (AGR 151)	50,000
To provide funds for a management study of the green sea turtle (GOV 109)	50,000
To provide funds for research into the conversion of fresh Hawaiian avocado into processed food products (PED 102)	30,000
To provide funds to accelerate the ohia decline study (LNR 402)	50,000
To provide funds for a Leeward Archipelago fisheries resource study (GOV 109)	50,000
To provide funds for an American Revolution Bicentennial Commemoration Program (PED 102)	55,000
To provide funds for research into alternate uses for lava rock (PED 102)	100,000
To provide funds for the papaya marketing order (AGR 151)	20,000
To provide for a feasibility study on the establishment and operations of a farmer's market at Fort Armstrong, Oahu; provided, that a study be made on how a farmer's market could best fit into the area, the capital improvements that would be necessary, the estimated costs of operation, and possible methods of funding; provided, further, that the Hawaii Farm Bureau Federation shall be consulted during the course of the feasibility study (AGR 151)	5,000
To provide funds for a statewide facility for aquaculture (LNR 153)	78,000
To provide funds for an entomology and plant pathology project investigating possible ways to eliminate the Hamakua Pamakani plant (AGR 122)	50,000
To provide funds for the Governor's Agricultural Coordinating Committee for improving the organization and coordination of agricultural programs (GOV 102)	147,000
EMPLOYMENT	
To provide for a study on decreasing Hawaii's unemployment rate; provided, that there shall convene a statewide conference composed of representatives from government, labor, business and the general public to make recom-	10,000

ACT 226

mendations on the development and means to alleviate the problems caused by unemployment (LBR 151)

To provide funds for a comprehensive review of major employee benefits (LBR 902)

75,000

ENVIRONMENTAL PROTECTION

To provide funds for the Areawide Waste Treatment and Management Planning program to meet requirements of Section 208 of the Federal Water Pollution Control Act of 1972 (HTH 841)

100,000

To provide funds for the purchase of a new Fish and Game Warden's boat for enforcement patrol on Maui (LNR 906)

25,000

HEALTH

To provide funds for the operations of the Poison Information Center at Kauikeolani Children's Hospital (HTH 611)

50,000

To provide funds for the Waimano Auxiliary Day Care Center activities to match federal funds (HTH 511)

15,000

To provide funds for a grant-in-aid to Kahuku Hospital (SUB 601)

216,000

To provide funds for books and supplies for the Hilo Hospital Library (HTH 211)

20,000

To provide funds for a grant-in-aid to The House, Inc. (HTH 907)

15,000

To provide funds for grants-in-aid to the following alcoholism programs:

223,318

St. Francis Halfway House for Women--
\$38,552

Alcoholism Services Center--\$48,716
Sand Island Halfway House for Men--
\$27,650

Lanakila Crafts, Inc.-- \$11,400

Hawaii Committee on Alcoholism--\$86,000
Substance Abuse Control Program, Kauai
County--\$11,000
(HTH 907)

To provide funds to Honokaa Hospital for the purchase of equipment (HTH 212)

50,000

To provide for on-call psychiatric services for West Hawaii Mental Health Clinic (HTH 430)

32,500

To provide for contractual services to provide day activity center and outreach programs for mentally retarded adults at Lahaina, Maui (HTH 501)

50,000

To provide for ambulance services in the South Kohala district, County of Hawaii (HTH 910)

120,000

To provide funds for the continuance of family planning services; provided, that upon receipt by the family planning program of any funds from the Federal government under Title X and Title XX of the Social Security Act, then the program shall reimburse the State the like sum received but not in excess of \$300,000 (HTH 161)	300,000
Grant-in-aid to the G.N. Wilcox Memorial Hospital for operations (SUB 601)	200,000
To purchase mammographic machines for breast cancer detection to be placed in health facilities in the Counties of Maui, Hawaii and Kauai (HTH 907)	180,000
To provide for a feasibility study of Leeward Hospital to maintain necessary health services, including emergency medical services and out-patient health services (SUB 601)	20,000
To provide funds for the treatment of rape victims (HTH 910)	20,000
To provide funds for a master plan for the criminally insane (HTH 492)	25,000
To provide funds for bilingual health aides (HTH 908)	105,000
To provide funds for the services of carpenter helpers at Kalaupapa (HTH 111)	2,00* 12,000
To provide funds for the organization and operation of Subarea Health Councils on Oahu pursuant to S.B. 2294-76 (HTH 906)	150,000
Grant-in-Aid to Molokai Hospital; provided that the Department of Health shall from time to time monitor the expenditure of the funds provided for therein (SUB 601)	130,000
To provide for contractual services for private ambulance service on Molokai (HTH 910)	120,000
Grant-in-Aid to Habitat for facilities (HTH 440)	100,000
To provide funds for drug abuse rehabilitation and treatment programs as follows: Palama Settlement In-Community Center, Hale O' ulu, Habitat, YMCA Island-Wide Outreach, Teen Challenge (HTH 440)	130,831

HUMAN RESOURCES

To provide funds to improve and expand land surface transportation programs and services for the low income elderly residing in Hawaii County (BUF 602)	119,000
To provide funds to implement a demonstration project designed to improve transportation services in rural areas for the elderly, handi-	85,238

ACT 226

capped and other disadvantaged persons in Kauai County (BUF 602)

To provide funds to improve and expand land surface transportation programs and services for the elderly, handicapped and other disadvantaged persons in Maui County (BUF 602)

80,000

To provide funds to implement the expansion of transportation services to the elderly, handicapped and other disadvantaged persons of the North Shore and Leeward areas of Oahu (BUF 602)

25,000

To provide funds for a congregate dining program for the elderly residents on the Waianae Coast (BUF 602)

25,000

To provide funds for an additional 100 meals a day at three food service sites on Kauai and to provide for the hiring of one additional staff person (BUF 602)

25,000

To provide funds to enable the Commission on Aging to coordinate elderly employment (BUF 602)

11,000

To provide funds to Alu Like to meet the matching requirement for the Native Americans Act (GOV 863)

250,000

To provide funds to continue the operation of the Inter-Agency Council at Kuhio Park Terrace (SOC 131)

27,880

To provide funds for the Outward Bound program of the Hawaii Bound School (GOV 862)

60,000

To provide funds for the Leeward Immigration Center (GOV 862)

20,000

To provide funds for the continued operation of the Legal Aid Society of Hawaii through June 30, 1977 provided, however, that the Legal Aid Society of Hawaii shall comply with the reimbursement requirements of Section 89, Act 195, SLH 1975, relating to the continuance of the legal service project of the Legal Aid Society of Hawaii; provided, further that the Legal Aid Society of Hawaii shall reimburse the State for any non-general funds received after June 30, 1976 and provided, further, that funds received designated to aid specific target population groups not being presently serviced shall not be subject to the reimbursement provisions; provided, further, that any decrease in the general fund appropriation shall not jeopardize the receipt of the increased amount from the non-general fund source (GOV 863)

675,000

To provide funds for the Operation Kokua Day Care Center in Nanakuli (SOC 103)

61,639

Grant-in-aid to Kaumana Elderly Care Center for the implementation of services to the elderly (SOC 126)	12,000
Grant-in-aid to the Kalihia-Palama Immigrant Service Center; provided, that, upon receipt by the Kalihia-Palama Immigration Service Center of any funds from the federal government, then the Kalihia-Palama Immigration Service Center shall reimburse the State the like sum but not in excess of \$117,854; provided, further, that State Commission on Manpower and Full Employment's evaluation report be completed prior to the expenditure of this appropriation (GOV 862)	117,854
To upgrade the Lokahi Hawaiians program (GOV 862)	25,000
To expand preventive services in child abuse and neglect provided by the Family Stress Center at Kaukeolani Children's Hospital (SOC 102)	80,000
Grant-in-aid to Hale Opio, Inc. to be expended by the Kauai Community Services Council (SOC 105)	75,000
To provide for the establishment and operation of a Tenant Security Guard program, using residents at Kuhio Park Terrace, Oahu (SOC 221)	126,000
To provide for the continued operation of the Waianae Coast Rap Center, provided that maximal use of alternative funding be made before funds appropriated herein are released (GOV 862)	25,000
To provide for a one-year extension of the demonstration elderly day care facility located on the grounds of Wilcox Memorial Hospital, Lihue, Kauai (SOC 126)	20,000
To provide a grant-in-aid to the Salvation Army-Hilo for the operation of their Hilo Interim Home (SOC 105)	60,300
To provide supplementary funds to continue the operation of the alternatives for youth project of the Kalihia YMCA (GOV 862)	37,396
Grant-in-aid to the Kokua Kalihi Valley Association of Oahu for the operation of its Abused Spouse and Children Shelter (SOC 102)	34,000
To provide funds for planning and design of a Kakaako Housing Project by the Hawaii Housing Authority pursuant to Chapter 359G, Hawaii Revised Statutes (SOC 221)	250,000
To provide State assistance to residents for the renovation and rehabilitation of their existing dwelling units (SOC 212)	1,000,000

ACT 226

FORMAL EDUCATION

To provide funds for the establishment and operation of the Center for Labor Education and Research at the University of Hawaii (UOH 101)	7.00*	250,000
To provide funds for furnishings for the Korean Studies Center at the University of Hawaii (UOH 101)	75,000	
To provide for the comprehensive training program (University-without-walls) (UOH 101)	175,000	
To provide funds for banana research and development for production and marketing including nematoda control, handling, storage and packing (UOH 102)	35,000	
To provide funds for the Pacific and Asian Affairs Council (UOH 103)	85,000	
To provide funds for a study related to the possession of an aggregate weight of less than one ounce of Cannabis sativa (UOH 102)	4,000	
To provide funds for the continuation of the Hawaiian Students Research project (UOH 102)	68,000	
To provide funds to WICHE to create additional educational opportunities, provided that priority selection of applicants be based on the economic needs of applicants (GOV 807)	80,000	
To provide for the activities of Project Rise (Resources for Individuals Seeking Education) (UOH 322)	57,500	
Supplemental funds to support management, administration, and operation of the Canada-France-Hawaii Telescope Corporation in accordance with the Tripartite Agreement (UOH 102)	17,000	
To provide for a 4-H Youth Development agent for Maui County in the State 4-H youth program (UOH 102)	1.00*	18,000
To provide for the public services program of the college of continuing education, University of Hawaii (UOH 103)	206,203	
To provide funds for all non-income generating sports programs offered at the Manoa campus of the University of Hawaii (UOH 105)	385,000	
To continue the pre-admissions program for disadvantaged groups which are underrepresented in the Hawaii bar and to monitor the progress of these students at the University of Hawaii law school (UOH 101)	1.50*	26,500
To provide for a clerk-steno III in the cooperative extension services office on Molokai, College of Tropical Agriculture, University of Hawaii (UOH 102)	1.00*	8,500

To provide for the improvement of present fumigation methods to eliminate fruit flies in avocados and to develop alternative fumigation methods so as to meet U.S. Drug Administration standards for shipment out of state (UOH 102)	25,000
To improve and expand the operations of the department of architecture at the University of Hawaii (UOH 101)	156,612
To provide funds for the Hawaiian Studies Program at the University of Hawaii (UOH 101)	125,000
To provide for student-help pay, to meet the increased minimum wage level, at the University of Hawaii (UOH 106)	314,066
To provide funds for the college work-study program (UOH 105)	106,680
To provide for travel expense, equipment and supplies for the sports program at the University of Hawaii at Hilo (UOH 205)	49,073
To provide funds to continue the work initiated by the Hawaii Environmental Simulation Laboratory (UOH 102)	85,000
To provide funds for a career opportunities program in the University of Hawaii community college system (UOH 901)	150,000
To provide funds for a community education program to be operated by the Kaneohe Community Education Advisory Committee, Inc. at King Intermediate School (EDN 501)	10,000
To provide funds for additional courses and/or scholarships to the Gerontology Summer Institute at the University of Hawaii (UOH 101)	50,000
To provide funds for research to identify pesticides effective against the Formosan subterranean termite and approved by the federal government (UOH 102)	30,000
To provide for assessment of the economic significance of and evaluation of alternative pesticides for ant control in pineapple culture (UOH 102)	17,000
To provide funds for carpentry equipment for the Maui Community College vocational education program (UOH 501)	25,000
To provide funds to contract for seed production of a tropical variety of forage corn suitable for the requirements of Hawaii's livestock industry (UOH 102)	70,000
To provide funds for the inter-campus athletic program (UOH 903)	30,000
To provide funds for the occupational safety and health program at Honolulu Community College (UOH 301)	1.00* 33,554

ACT 226

To provide for the establishment of a School of Human Resource Development within the College of Tropical Agriculture, University of Hawaii, Manoa (UOH 101)	82,000
To provide funds for additional teams of art, music, and physical education specialists to be placed in the seven school districts (EDN 102)	325,151
To provide funds to continue the responsive education program of Central Intermediate School and the Nuuanu Young Men's Christian Association (EDN 103)	26,540
To provide funds to purchase additional library books for deficient school libraries, including Kaiser High School and Maui High School (EDN 104)	35,000
To provide funds for the Blue Water Marine Laboratory (EDN 104)	25.000
To provide funds for a law enforcement awareness program in the high schools directed at counseling troubled youths (EDN 104)	20.000
To provide funds for the planning of a pilot project to provide services to students with learning disabilities (EDN 201)	25.000
To provide funds for a pilot project to provide services to students with learning disabilities (EDN 201)	50,000
To provide funds for a special education summer school program (EDN 201)	171,349
To provide funds for a pilot project to the Hawaii Association for Retarded Children, Ft. Ruger, for independent living (EDN 201)	70,000
To provide funds for alternative education programs (EDN 202), as follows: School Within a School - \$7,000; Pahoa High corrective reading - \$20,000; Nanaikapono Preschool (Nanakuli) - \$31,115; Molokai Alternative School - \$25,000; Kalakaua extended project - \$70,345	153,460
To provide funds to the Department of Education for the support of language schools (EDN 202)	90,000
To provide funds for external evaluation of the 3-on-2 program (EDN 302)	65,500
To provide funds for the expansion of the school health project to the eleven complexes of the remaining 53 elementary schools thus fulfilling the intent that the school health project shall be expanded to include all public elementary schools in the State for the 1975 76 biennium and to maintain current school health services at 134 elementary schools (HTH 871)	667.694

To provide funds for the renovation of automobiles (EDN 302)	25,000
To provide funds for a Language Arts Coordinator on a contractual basis, to lead the efforts of the reading specialists at the district level (EDN 302)	16,000
To provide funds for program for the intellectually and artistically gifted and talented (EDN 302)	50,000
To provide funds for counseling and guidance resource teachers to be placed in the seven school districts on a contractual basis (EDN 401)	167,000
To provide funds for contractual diagnostic services and follow-up treatment for regular and special education students (EDN 404)	200,000
To provide funds for a water safety program (EDN 403)	15,000
To provide funds to field test teacher evaluation programs (EDN 302)	75,000
To provide funds for the purchase or repair of band instruments (EDN 507)	150,000
To provide funds for reading specialists on a contractual basis to be placed in the seven school districts (EDN 602)	78,460
To provide funds for the purchase of books for public libraries, statewide; and 2 positions for Makiki Library and 1 position for Kalihi Library (EDN 602)	3.00 149,360

CULTURE AND RECREATION

To provide funds to enable Hawaii Public Television to extend programming an additional two hours each day (REG 701)	35,000
To provide funds to promote the advancement of Hawaiian music (BUF 881)	25,000
To provide funds for the updating and/or production of films relating to governmental processes and the role of the citizenry in our democracy (REG 701)	75,000
To provide funds to upgrade the planning and administration of the State parks program (LNR 804)	3.00* 28,215
Grant-in-aid to the Bishop Museum for operations (BUF 802)	100,000
To provide funds to achieve selected excellence for the viewership through the Hawaii Public Television (REG 701)	2.00* 78,000

ACT 226

PUBLIC SAFETY

To provide funds for a pilot project of the Mutual Agreement Program (SOC 493) 45,000

To provide funds for the reconstitution of the Hawaii Parole Authority as provided for in S.B. 75 (SOC 411) 60,000

INDIVIDUAL RIGHTS

To provide funds to formulate an ad hoc state coordinating committee to organize and convene a State Women's Conference in order to achieve the objectives and goals of Public Law 94-167, 94th Congress, H.R. 9924 (December 23, 1975), provided, that such committee shall be opened to all women, including representatives from Hawaii's local, state or national institutions, agencies, organizations, unions, associations and publications; members of the general public with special emphasis on representation of low-income women; members of diverse racial, ethnic and religious groups; women of all ages and individual advocates of women's rights (BUF 888) 25,000

To provide funds for the Continuing Education for Women program (BUF 888) 75,000

GOVERNMENT-WIDE SUPPORT

To provide additional funds and positions to the Office of Collective Bargaining and to offset negotiating expenses of the counties (GOV 102) 2.00*
35,848

To provide funds for a voter education program (LTG 100) 50,000

To provide funds for a national conference of attorney generals to be held in Hawaii (ATG 101) 20,000

To provide funds for a grant-in-aid to the city and county of Honolulu for community gardens provided that the city and county of Honolulu provides matching funds for the program (LNR 101) 4,000

To provide funds for the purpose of preparing a Windward Oahu Regional Plan. Funds for the purpose of contracting with a consultant or an advocate planner, provided that the plan shall incorporate significant collaboration between citizens, the government, property owners, and interested organizations. The plan shall encompass the area from Waiahole-Waikane to Kahuku-Kawela (PED 101) 150,000

To provide funds to continue the operation of the Kohala Task Force feedlot project (GOV 102) 805,000

To provide funds for staffing, other current expenses, contractual services and equipment for implementation of the Community Development Program pursuant to S.B. 2394-76 (GOV 100)	200,000
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SECTION 6. Act 195, Session Laws of Hawaii 1975, is amended by adding thereto a new Part IVA reading as follows:

"PART IVA. CAPITAL IMPROVEMENTS

SECTION 88A. The following sums of money or so much thereof as may be necessary are hereby authorized or appropriated, as the case may be, for the fiscal year beginning July 1, 1976 and ending June 30, 1977, from the source of funding specified for the capital investment projects and the project adjustment fund listed below. The letter symbol in the code column after each project appropriation indicates the source of funding and shall have the meaning set forth in section 2 of Act 195, Session Laws of Hawaii 1975. For projects listed under the program area for which the program identification organization is the department of accounting and general services (AGS), the office of the governor (GOV), the department of Hawaiian home lands (HHL), the department of land and natural resources (LNR), the department of planning and economic development (PED), or the department of transportation (TRN), such department or office shall be the expending agency. For all other projects unless otherwise specified herein, the department of accounting and general services shall be the expending agency. Several or more related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided, that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to fund the project adjustment fund and to finance projects authorized herein and designated to be financed from general obligation bond fund and to finance projects authorized herein and designated to be financed from the general obligation bond fund with debt service cost to be paid from special funds, provided that the sum total of the general obligation bonds so issued shall not exceed \$146,000,000. Nothing in this section shall affect the continuing effectiveness of the appropriations for the projects listed in section 88 of Act 195, Session Laws of Hawaii 1975. (The amount after each cost element and the total funding for each project listed in this section are in thousands of dollars.)

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)						
		Cap. Proj. No.	Org.	No.	FY 1975-76	C O D	FY 1976-77	C O D	Total Biennium	C O D	
A. ECONOMIC DEVELOPMENT											
COMMERCE AND INDUSTRY											
1	Natural Energy Project, Ke-ahole Pt. Hawaii		PED	102							
	Design								1	1	
	Construction							749	749		
	Total Funding						A	750A	750A		
TRANSPORTATION, COMMUNICATIONS AND UTILIT											
2	South Kohala Water Project, Hawaii	G02	LNR	140							
	South Kohala Water Project, Hawaii										
	Incremental development of water system, including constructing of source development, transmission mains, treatment plant and storage facilities.										
	Construction							100	100		
	Total Funding						C	100C	100C		
3	Kona Water Project, Hawaii	G03									
	Kona Water Project, Hawaii										
	Incremental development of water system including plans and construction of source development shaft, pumps and appurtenances, transmission mains, and storage facilities.										
	Design							100	100		
	Construction							2,200	2,200		
	Total Funding						C	2,300C	2,300C		

4	West Maui Water Project, Maui West Maui Water Project, Maui	G04				
	Incremental development of water systems, including plans and construction of source development, transmission mains, storage facilities and appurtenances, including development of water resources.					
	Land Acquisition		10	10		
	Design		100	100		
	Construction		1,390	1,390		
	Total Funding	C	1,500C	1,500C		
5	Kau Water Project, Hawaii Kau Water Project, Hawaii	G06				
	Incremental development of water system, including construction of source development, pipelines and storage facilities.					
	Construction		775	775		
	Total Funding	C	775C	775C		
6	Kalaheo-Lawai Water System, Kalaheo, Kauai	G19	LNR	140		
	Kalaheo-Lawai Water System, Kalaheo, Kauai					
	Incremental development of water system including plans and construction of source development, pipelines, storage facilities and appurtenances.					
	Land Acquisition		10	10		
	Design		31	31		
	Construction		299	299		
	Total Funding	C	340C	340C		
7	Water Sources Investigation, Hawaii Water Sources Investigation and Development, Hawaii	G25				
	Engineering and economic studies, geologic and hydrologic investigation, exploration and					

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)					
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	C O D	FY 1976-77 E	C O D	Total Biennium 1975-77 E	C O D
development for the conservation and utilization of surface and ground water.										
	Land Acquisition						10		10	
	Design						17		17	
	Construction						273		273	
	Total Funding					C	300C		300C	
8	Water Sources Investigation, Oahu	G43								
	Water Sources Investigation and Development, Oahu									
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources.									
	Land Acquisition						10		10	
	Design						50		50	
	Construction						450		450	
	Total Funding					C	510C		510C	
9	Water Sources Investigation, Kauai	G44								
	Water Sources Investigation and Development, Kauai									
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources.									
	Land Acquisition						29		29	
	Design						65		65	
	Construction						636		636	
	Total Funding					C	730C		730C	

10	Water Sources Investigation, Maui Water Sources Investigation and Development, Maui Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water.	G46					
	Land Acquisition	G46	LNR	140	5	5	
	Design				15	15	
	Construction				180	180	
	Total Funding		C		200C	200C	
	TRADE AND FINANCE						
	SCS Devlpmt & Marketing for Trade & Fina		PED	107			
11	Foreign-Trade Zone No. 9, Oahu Plans and construction for expansion and improvement of FTZ no. 9, including necessary off-site improvements. Unexpended balances in item B-7, Act 68, SLH 1971, items A-3 and A-4 of Act 218, SLH 1974, and item A-13 of Act 195, SLH 1975 may be used for this project.	FZI					
	Design				1	1	
	Construction				1	1	
	Total Funding		C		2C	2C	
	AGRICULTURE						
	Economic Assistance for Agriculture Price and Production Controls for Agr		AGR	103			
12	Feed and Grain Storage Facilities, State-wide	009					
	Design				1	1	
	Construction				499	499	
	Total Funding		C		500C	500C	
	Prodctvty Imprvmnt & Mgt Asstnce for Agr Animal Pest and Disease Control Animal Quarantine		AGR	131			

Item No.	Program and Capital Project	Program ID		APPROPRIATIONS (\$1,000's)					
		Cap. Proj. No.	Org. No.	FY 1975-76 E	C O D	FY 1976-77 E	C O D	Total Biennium 1975-77 E	C O D
13	Animal Quarantine Station, Oahu Renovation of sewage treatment system, animal quarantine station, Halawa, Oahu	010							
	Design						90	90	
	Construction						160	160	
	Total Funding					C	250C	250C	
	Animal Disease Control		AGR	132					
14	Animal Industry Laboratory, Oahu Animal Industry Laboratory Office Building, Halawa, Oahu	002							
	Design						127	127	
	Total Funding					C	127C	127C	
	Irrigation Services for Agriculture		LNR	161					
15	Access Bridges for Waimea Irrigation System Access Bridges for Waimea Irrigation System Hawaii Plans and construction for the replacement of bridges for the Waimea irrigation system.	G49	LNR	161					
	Design						20	20	
	Construction						105	105	
	Total Funding					C	125C	125C	
B. EMPLOYMENT									
ASSISTANCE IN WORK RELATED DIFFICULTIES									
	Vocational Rehabilitation		SOC	802					
1	Extended Sheltered Workshop			504					

	To provide sheltered employment to 100 severely disabled persons on Oahu at a site readily accessible by bus. Gross building area of 14000 sq. ft. and land area of 60000 square feet.			
	Land Acquisition	224	224	
	Design	15	15	
	Construction	604	604	
	Total Funding	C	843C	843C
2	Nanakuli Workshop for the Handicapped	507		
	To provide work evaluation and work training to 75 handicapped residents annually and 50 at any given time. The workshop shall have air condition. Gross building area 9300 square feet and land area 40000 square feet			
	Land Acquisition	75	75	
	Design	7	7	
	Construction	527	527	
	Total Funding	C	609C	609C

C. TRANSPORTATION FACILITIES

AIR TRANSPORTATION FACILITIES AND SVCS

	Airports Facilities and Services			
	Ke-ahole Airport Facilities and Services	TRN	114	
1	Emergency Access Road	C04		
	Grade the approaches to the runway to provide emergency access for the crash/fire vehicles and other miscellaneous improvements.			
	Design	5	5	
	Construction	45	45	
	Total Funding	B	50B	50B

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 E	C O D	FY 1976-77 E
	Lihue Airport Facilities and Services		TRN	161			
2	Plans, Land Acquisition & Constr of New Rwy	E02					
	Plans, land acquisition & construction of a new runway and taxiway, apron, lighting and other miscellaneous improvements						
	Land Acquisition				2,900	2,900	
	Design				1,750	1,750	
	Construction				6,350	6,350	
	Total Funding				D	8,000D	8,000D
					N	3,000N	3,000N
	Air Transportation Facilities & SVCS Sup General Administration for Air Trans F&S		TRN	293			
3	Statewide Airport Planning	F01					
	Statewide airport planning which provides basic data and information for proper planning preliminary designs, special engineering, architectural and environmental studies and the establishment of development priorities of the state airport system facilities and continue review and updating of master plans.						
	Design				250	250	
	Total Funding				B	250B	250B
	Water Transportation Facilities and Serv						
	Harbors Facilities and Services						
	Honolulu Harbor Facilities and Services		TRN	301			
4	Add Recon Rel Improv to Fac Piers 18-34	J02					
	Addition, reconstruction, relocation and improvement of roadways, sheds, parking, light-						

ing, utilities and other facilities to the pier 18 to 34 area including improvements to piers 21 - 29 area for interisland and/or other maritime operations.

	Construction		200	200
	Total Funding	B	200B	200B
5	Misc Improv to Exist Pier FAC at Hon Har	J03	TRN	301
	Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu harbor, including improvements to lighting, oil lines, paving, and other facilities.			
	Design		7	7
	Construction		43	43
	Total Funding	B	50B	50B
6	Piers 5-12 Improv and Renov Hon Har	J05		
	Improvements to piers 5-12 area including elevated pedestrian walkway and promenade and other improv. building and other improvements.			
	Design		34	34
	Total Funding	B	34B	34B
7	Imprvmts to Piers 15-18, Hon Harbor	J08		
	Development of berthing areas for commercial fishing vessels and backup facilities.			
	Construction		400	400
	Total Funding	B	400B	400B
8	Acquisition and Development of Piers 41-42	J19		
	FY 76 Initial Development			
	FY 77 final payment for acquisition of land and facilities succeeding years further development.			
	Land Acquisition		5,965	5,965
	Total Funding	D	5,965D	5,965D

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)					
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	C D	FY 1976-77 E	C D	Total Biennium 1975-77	C D
	Kahului Harbor Facilities and Services		TRN	331						
9	Kahului Harbor Improvements Maui	M01								
	Kahului harbor improvements including acquisition of land, development of container yard, ro-ro, and fishing vessel facilities, and other improvements.									
	Design					259		259		
	Construction					1,241		1,241		
	Total Funding				B	1,500B		1,500B		
	Nawiliwili Harbor Facilities and Service		TRN	361						
10	Nawiliwili Harbor Improvement—Kauai	K01								
	Nawiliwili har impr including roadway, drainage and seawall improvement in the jetty area and development of ro-ro facilities, fed-state future project including dredging and widening of entrance channel and harbor basin & other impr-possible fed aid anticipated is approx \$3,298,000.									
	Design	K01	TRN	361		47		47		
	Construction					228		228		
	Total Funding				B	275B		275B		
	Other Water Transportation F & S		TRN	401						
11	Misc. Imprv. to Fac. at Neighbor Is. Ports	103								
	Improvements to yard areas, sheds, piers, utilities, water areas and other facilities.									
	Design					4		4		
	Construction					21		21		
	Total Funding				B	25B		25B		

12	Statewide Commercial Har. Sewer Sys Imprv.	104				
	Study and implementation of statewide sewage system for commercial harbors. Implementation costs are dependent upon study findings and recommendations.					
	Design		250	250		
	Construction		1,250	1,250		
	Total Funding	D	1,500D	1,500D		
13	Water Transportation F&S Support Planning and Analysis for Water Trans F	TRN 491				
	Statewide Harbor Planning	101				
	Continuing harbor studies, research and advancee planning of harbor and terminal facilities on all islands.					
	Design		90	90		
	Total Funding	B	90B	90B		
14	Land Transportation Facilities and Servi Corridors and Highways and Services Oahu Highways and Services	TRN 501				
	Interstate Route H-1-Middle Street Separation to Koko Head Ave. Honolulu, Oahu—Safety improvements along existing Lunalilo Freeway from Middle Street separation to Koko Head Avenue. To be supplemented by item I-C-15 of Act 187, SLH 1970, Item H-26 of Act 68, SLH 1971, Item C-34 of Act 218, SLH 1974 and Item C-32 of Act 195, SLH 1975.	Q44				
	Design		75	75		
	Construction		500	500		
	Total Funding	D	85D	85D		
		J	490J	490J		

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY C D 1975-76 E	FY C D 1976-77 E	Total Biennium C D 1975-77 E
15	Interstate Route H-1, Landscaping Palailai to Ainakoa, Oahu—Incremental landscaping, including sprinkler systems and other appurtenances necessary for the continual maintenance of the improvements.	Q49					
	Design	Q49	TRN	501		15	15
	Construction					85	85
	Total Funding				D	100D	100D
16	Interstate Route H-1, East of Halawa I.C. to Middle Street separation, Oahu—Incremental construction of eight freeway lanes, including Pearl Harbor, airport and Keehi interchanges.	R12					
	Land Acquisition					5,971	5,971
	Design					1,201	1,201
	Construction					37,542	37,542
	Total Funding				D	4,714D	4,714D
					J	40,000J	40,000J
17	Busway on Interstate and Other Routes on Oahu—Construction of busways for mass transit on interstate and other routes.	R13					
	Design					70	70
	Construction					530	530
	Total Funding				D	200D	200D
					N	400N	400N
18	Kamehameha Highway Improvements Wa-hiawa town section, Oahu—Widening of Kamehameha Highway from Wilson Bridge to vicinity of Kilani Ave including replacement of	R51					

	Wilson Bridge.						
	Land Acquisition				41		41
	Construction				1,959		1,959
	Total Funding				D 700D		700D
					K 1,300K		1,300K
19	Likelike Hwy—Kahekili Hwy Interchange Koolaupoko, Oahu. Construction of interchange to replace the existing at grade intersection.	R71					
	Land Acquisition				662		662
	Design				77		77
	Construction				6,477		6,477
	Total Funding				D 7,216D		7,216D
20	Kalanianaole Hwy, Ainakoa to Lunalilo Hme-Rd	R76					
	Developing a transportation corridor including hwys, bikeways & land transit systems from Hawaii Kai to downtown Honolulu. Only planning funds may be used for a waterborne mass transit system. No construction funds may be used for a waterborne mass transit system. To be supplemented by funds from Act 197, SLH 1971; Item 1C-7, Act 176, SLH 1972; Item 1C-19, Act 218, SLH 1974; Item IVB-10 & Item IVC-40 of Act 195, SLH 1975.						
	Design	R76	TRN	501	600		600
	Construction				5,400		5,400
	Total Funding				D 2,100D		2,100D
					K 3,900K		3,900K
21	Moanalua Rd Improvements—Aiea towards Middle Street, Oahu—Improving the existing four-lane divided highway from Aiea to Middle Street.	S65					
	Design				410		410
	Construction				5,360		5,360
	Total Funding				D 2,040D		2,040D
					K 3,730K		3,730K

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org. No.	FY 1975-76 C D	FY 1976-77 C D	Total Biennium C D 1975-77 E	
22	Farrington Hwy Improvements Pilikoe Gulch towards Mokuleia, Oahu—Incremental construction for improvements, widening & realignment of Farrington Hwy from Pilikoe Gulch towards Mokuleia.	S66					
	Land Acquisition				403	403	
	Design				893	893	
	Construction				200	200	
	Total Funding			D	1,496D	1,496D	
23	Oahu Bikeways, Oahu	S74					
	Construct a bikeway on Oahu from the vicinity of Ala Moana Park to Mokuleia by way of Pearl Harbor, Waipahu, Waianae and Kaena Point.						
	Design				30	30	
	Construction				370	370	
	Total Funding			D	400D	400D	
24	Nimitz Hwy- Pedestrian Overpass, Oahu	S75					
	Construction of pedestrian overpass on Nimitz Highway at Fort Street.						
	Land Acquisition				6	6	
	Design				30	30	
	Total Funding			D	36D	36D	
	Hawaii Highways and Services		TRN 511				
25	Hilo Waterfront Road, Vicinity of Wailuku River to Hilo wharf, South Hilo, Hawaii. Improvement of highway from vicinity of Wailuku River to Hilo wharf, including replacement of Wailoa River Bridge.	T02					

	Design		723	723
	Total Funding		723D	723D
26	Hawaii Belt Road, Holualoa to Papa	T03	D	
	Incremental construction of two lane hwy from Holualoa to Papa.			
	Design		50	50
	Total Funding		50D	50D
27	Kawaihae Road: Waimea toward Hapuna	T06	D	
	Incremental construction of a hwy from Mama- lahoa Hwy in the vicinity of Kamuela Race- track to Queen Kaahumanu Hwy at Hapuna & construct a hwy along Route 270 from the Jct of Rte 270 and 19 to Kawaihae, to be supple- mented by Item C-104 of Act 217, SLH 1967, Item C-61, Act 40, SLH 1968, Item C-81 of Act 155, SLH 1969, Item III-C-7, Act 197, SLH 1971 & Item H-61, Act 68, SLH 1971.			
	Design		1	1
	Total Funding		1D	1D
28	Hawaii Belt Road: Mud Land Towards	T07	D	
	Kamuela Race Track, South Kohala and Ha- makua, Hawaii. Realignment of highway be- tween Mud Lane and Kamuela Race Track on an alignment by-passing Waimea.			
	Construction		3,647	3,647
	Total Funding		3,647D	3,647D
29	Hawaii Belt Road, Improvements Hawaii—	T16	D	
	Realignment of portion of Hawaii Belt Road including the construction of the Kapehu and Kaalau Bridges.			
	Construction		972	972
	Total Funding		972D	972D

Item No.	Program and Capital Project	Cap. Proj. No.	Org. No.	Program ID	APPROPRIATIONS (\$1,000's)			
					FY 1975-76 E	C O D	FY 1976-77 E	C O D
30	Hawaii Belt Road, Climbing Lanes, Hamakua, Hawaii—Construction of climbing lanes from Kaawalii Gulch to Ookala Cemetery.	T26						
	Land Acquisition					10		10
	Design					15		15
	Construction					400		400
	Total Funding				D	425D		425D
31	Hawaii Belt Road: Replacement of 5 Bridges	T27						
	Hawaii Belt Road Improvement, Hamakua, Hawaii—Replace existing wooden bridges at Kainehe, Kaholalele, Paauilo School and East Paauilo Streams and concrete bridge at Kealaka-haha Stream.							
	Land Acquisition					150		150
	Total Funding				D	150D		150D
32	Hawaii Belt Road, Puna, Hawaii—Improvement and realignment of existing two-lane highway to four-lane highway from the vicinity of Slaughter House Road to South of the Keaau-Pahoa Road, including improvement of the Hawaii Belt Road and Keaau-Pahoa Road Intersection.	T56						
	Construction					1,200		1,200
	Total Funding				D	1,200D		1,200D
33	Keaau-Pahoa Rd., Puna, Hawaii	T62						
	Realignment of Highway from approximately 1 mile north of and to the vicinity of the Pahoa-Kalapana-Kapoho Road Junction.							
	Design					40		40
	Total Funding				D	40D		40D

34	Hawaii Belt Road, Kau-Kona Hwy, Hawaii	T73				
	Plans and construction for realignment, incremental construction of a hwy between Kau and Kona.					
	Construction			1,000	1,000	
	Total Funding		D	1,000D	1,000D	
35	Keaau-Pahoa Rd Puna, Hawaii	T75				
	Reconstruction of hwy from Hawaiian Paradise Park to vicinity of Keonepoko Homesteads.					
	Design			125	125	
	Total Funding		D	125D	125D	
	Maui Highways and Services	TRN 531				
36	Honoapiilani Hwy Maui	V03				
	Construction of improvements to Honoapiilani Hwy from Kihei Rd to Kuihelani Hwy.					
	Design			20	20	
	Construction			827	827	
	Total Funding		D	847D	847D	
37	Kahekili Highway, Maui—Incremental	V18				
	widening paving, and improvement of existing dirt road between Waihee and Honokohau.					
	Design			43	43	
	Construction			490	490	
	Total Funding		D	533D	533D	
38	Haleakala Highway—Airport to Kula Highway	V41				
	Makawao, Maui—Widen, realign and reconstruct highway from Kahului Airport junction on Hana Highway to Kula Highway junction at Pukalani.					
	Land Acquisition			67	67	
	Total Funding		D	67D	67D	

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 E	FY 1976-77 E	Total Biennium 1975-77 E
39	Piilani Highway, Kihei to Ulupalakua, Maui—Incremental construction of highway from Kihei to Ulupalakua.	V43					
	Construction					2,500	2,500
	Total Funding				D	2,500D	2,500D
40	Hana Hwy—Kailua to Hana	V45					
	Maui safety improvements, resurfacing, repair and replacement of bridges and culverts from Kailua to Hana.						
	Land Acquisition					37	37
	Design					62	62
	Construction					473	473
	Total Funding				D	572D	572D
	Kauai Highways and Services			TRN 561			
41	Kauai Belt Road, Hanalei Town Section	X01					
	Hanalei, Kauai—Construction of highway between Hanalei Bridge and Waiolo Stream Bridge, including a structure at Waioli Stream and landscaping.						
	Design					71	71
	Total Funding				D	71D	71D
42	Kauai Belt Rd., Lumahai to Hanalei, Kauai —	X04					
	Construction of highway, including major drainage structure and landscaping.						
	Design					233	233
	Total Funding				D	233D	233D

43	Scenic Hwy—Lawai to Kalaheo—Kauai Constr of approx 3 miles of hwy from Spouting Horn towards Kukuiolono Park.	X12				
	Design		D	150	150	
	Total Funding			150D	150D	
44	Kekaha Seawall—Kauai	X37				
	Plans & construction of addition & repairs to seawall along Kaumualii Hwy.					
	Design			20	20	
	Construction			200	200	
	Total Funding		D	220D	220D	
45	Waikoko Bridge Replacement, Kauai Belt Road—Hanalei, Kauai. Construction of bridge & approaches to replace deteriorating structure.	X39				
	Land Acquisition			45	45	
	Design			20	20	
	Construction			215	215	
	Total Funding		D	280D	280D	
46	Kuamoo Road, Safety Improvements	X40				
	Kauai—Safety improvements along Kuamoo Road.					
	Construction			264	264	
	Total Funding		D	264D	264D	
47	Hanamaulu-Ahukini Cutoff Rd, Kauai	X43				
	Land acq. plans & construction of hwy to relieve congestion thru Lihue town area.					
	Design			430	430	
	Total Funding		D	430D	430D	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)			
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	C O D	FY 1976-77 E	C O D
	Land Transportation F & S Support							
	General Administration for Land Trans F		TRN	814				
48	Close-Out of Highway Rights-of-Way, State-wide. To Acquire	X96						
	Clear title to real property used for the construction of previous highway projects where applicable, to provide for the transfer of real property interest from the State to the State Counties for the implementation of the State hwy system.							
	Land Acquisition						250	250
	Total Funding				D	250D	250D	
49	Miscellaneous Drainage Improvements	X97						
	Statewide-drainage improvements to existing highway facilities.							
	Design					30	30	
	Construction					120	120	
	Total Funding				D	150D	150D	
50	Miscellaneous Improvements to Existing Intersections and Highway Facilities, State-wide—Miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety.	X98						
	Land Acquisition					100	100	
	Design					170	170	
	Construction					800	800	
	Total Funding				D	425D	425D	
					K	645K	645K	

51 Highway Route Planning, Traffic, Finance, X99
Road Use, Road Life and Economic Studies,
Statewide—Highway studies and research and
advance planning of federal highway projects.
This is required to qualify the State to receive
Federal-Aid.

Design Total Funding

D	1,123	537D	537D
N		586N	586N

D. ENVIRONMENTAL PROTECTION

POLLUTION CONTROL

Solids, Liquids, and Gases

HTH 841

Design Construction Total Funding

1	1
4,499	4,499
4,500A	4,500A

Preservation and Enhancement Forests and Open Spaces

LNR 402

2 DLNR Baseyard, Maui D05
Design and construct a departmental baseyard for Maui facility to include covered parking, shops, flammable storage, fire cache, office and

Item No.	Program and Capital Project restroom, nursery area, and warehouse.	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
	Design					6	6
	Construction					204	204
	Total Funding				C	210C	210C
3	DLNR Baseyard, Kauai	D06					
	Construction of a DLNR baseyard on Kauai.						
	Construction					595	595
	Total Funding				C	595C	595C
	General Support for Nat Phys Environment						
	Policy Dvlpmnt, Coord & Anlys for Nat P		GOV	401			
4	Solid Waste Project	Q01					
	Planning, design and construction of a facility for recovering, recycling or reusing solid waste.						
	Design					1,200	1,200
	Construction					800	800
	Total Funding				C	2,000C	2,000C
E. HEALTH							
PHYSICAL HEALTH							
	Communicable Diseases						
	Leprosy		HTH	111			
	Leprosy Program	T02					
	Renovation, addition, and relocation of facilities required for the leprosy program. Depending upon the outcome of the study on the leprosy program, funds may be used to construct a new 20 bed infirmary & to improve water system at Kalaupapa Settlement. Unencumbered balances from item E-8, Act 68, SLH 1971, & Item II F-4, Act 218 SLH 1974 may be used.						

These funds may also be used to make renovations to other facilities in the leprosy program.

	Design		25	25
	Construction		100	100
	Total Funding	C	125C	125C
	Hospital Care			
	Hilo Hospital—Hospital Care	HTH 211		
2	Reroof Hilo Hospital & Residence Bldgs	C31		
	To reroof pitch and gravel roofing of hospital buildings, nurses cottage, boys A cottage and cottages 1, 2, 3 & 4 last reroofed in 1966. Phase 1 emergency repair of 1973 earthquake damage (1974 approp) completed.			
	Design		28	28
	Total Fundings	C	28C	28C
	Maui Memorial Hospital—Hospital Care	HTH 221		
3	Maui Memorial Hosp South Wing	C05		
	Plans and construction of a South Wing, renovations H-16, H-18, & H-20 of Act 155/69, & Items H-21, H-22, laundry at Maui Memorial Hospital. Unexpended balances in Items E-15 & E-16 of Act 68/71, items & H-26 of Act 187/70 shall be used for this project. Master plan completed.			
	Construction		6,800	6,800
	Total Funding	C	6,800C	6,800C
	Kula Sanatorium—Hospital Care	HTH 323		
4	Kula Sanatorium Hospital Modernization	D06		
	Correction of code violations and to modernize facility to conform to public health standards. Phase 1 project-code violations completed. Phase 2 Project—Modernization project underway.			
	Construction		1,431	1,431
	Total Funding	C	1,431C	1,431C

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Org. No.	APPROPRIATIONS (\$1,000's)		
				FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium C D 1975-77 E
	MENTAL HEALTH					
	Routing Treatment Rehab Svcs for Mental H		HTH 420			
5	Diamond Head Health Center, Oahu	E18				
	New health center approx 67,400 sq ft type I construction to replace the present wood frame bldg. Occupants will include: the Mental Health Center, Alcoholism Clinic, Convalescent Center, Preventive and Clinical Services, Correction and Family Court, Children's Health Services, Public Health Nursing, Dental Health and Health Education.					
	Construction				5,400	5,400
	Total Funding			C	5,400C	5,400C
	MENTAL RETARDATION					
	Waimano Training School and Hospital		HTH 511			
6	Waimano Training School and Hospital renovations to the hospital and other facilities so that life safety violations may be corrected and certification can be obtained for federal reimbursement.	R01				
	Design				80	80
	Construction				508	508
	Total Funding			C	588C	588C
7	Waimano Training School and Hospital planning and construction of transition homes for Waimano residents.	R02				
	Design				20	20
	Construction				130	130
	Total Funding			C	150C	150C

COMMUNITY HEALTH SERVICES

Drinking Water Quality	HTH	621		
8. Water Systems, Statewide	Y02			
Plans and construction, including feasibility studies, for the development of water systems to comply with the requirements of the safe drinking water act. (To be expended by the Department of Health.)				
Design		200	200	
Total Funding		C	200C	200C

F. SOCIAL PROBLEMS**ASSURED STANDARD OF LIVING**

Housing Assistance				
Housing Augmentation and Home Ownership				
Rental Housing Augmentation	SOC	221		
1. Federal Low Income 325 Family Dwellings	H01			
2 to 5 bedrooms masonry and/or frame.				
Construction		3,700	3,700	
Total Funding		E	3,700E	3,700E

G. FORMAL EDUCATION**LOWER EDUCATION**

Regular Instruction	EDN	102		
Elementary				
1. Relocate and Construct Portable Classrooms	AOA			
Relocation of approximately 60 portables and construction of approximately 3 portables each school year to meet enrollment shifts among schools, consolidation of schools, unforeseen emergencies, and to provide temporary facilities while new schools are being planned and/or				

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY 1975-76 C E	FY 1976-77 C D E	Total Biennium 1975-77 C
	under construction. These funds are also for secondary schools.						
	Design					160	160
	Construction					975	975
	Total Fundings				C	1,135C	1,135C
2	Minor Improvements, Additions, Renovations	AOB					
	Minor additions, renovations and improvement to buildings and school sites for student safety and health protection of property and to improve the educational program project adjustment fund for projects requiring supplemental funds due to price increases. These funds are also for secondary schools.						
	Design					100	100
	Construction					1,924	1,924
	Total Funding				C	2,024C	2,024C
3	Lump Sum—Minor Land Acquisition	AOC					
	Acquisition of small parcels of land abutting existing school sites which are needed for better location of buildings and to provide better access which were not foreseen in the original construction. These funds are also for secondary schools.						
	Land Acquisition					120	120
	Total Funding				C	120C	120C
4	Lump Sum for Master Plans and Site Studies	AOD					
	Master plans, pre-land acquisition studies, site selection and feasibility studies to meet future and unforeseen school needs due to residential developments. These funds are also for secondary schools.						

	Design Total Funding		C	100 100C	100 100C
5	Removal of Architectural Barriers To provide ramps and other corrective measures for easy accessibility of school facilities to handicapped persons. Planning and construction of improvements at a few selected schools. These funds are also for secondary schools.	AOE			
	Design Construction Total Funding		C	30 170 200C	30 170 200C
6	Jefferson El—Orthopedic Classrooms Plan & construct orthopedic buildings 6 and 7 and demolish old buildings.	CIF			
	Construction Total Funding		C	300 300C	300 300C
7	Ewa E.S. Construct 12 classroom bldg, ground and site improvements.	J3B			
	Construction Total Fundings		C	972 972C	972 972C
8	Mauka Lani E.S. Plan and construct 8 classroom bldg, paved playcourts, ground and site improvements.	K4C			
	Construction Total Funding		C	696 696C	696 696C
9	Hana High and Elementary School, Maui Plan and construct classrooms.	S2C			
	Design Total Funding		C	64 64C	64 64C
10	Lihikai School, Maui Supplementary funds for plans and construction of classrooms.	T4A			
	Design Total Funding		C	40 40C	40 40C

Item No.	Program and Capital Project	Cap. Proj. No.	Org. No.	Program ID	APPROPRIATIONS (\$1,000's)			
					FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium C D E	Total 1975-77 C D E
11	New Hanalei School	WIC						
	Plan and construct eight classroom building with teacher work center and toilets with portion to be used as temporary library and administration office.							
	Construction						520	520
	Total Funding				C	520C		520C
12	Waianae II Elem, Oahu	IYA						
	Site selection, master plan & plans for 1st increment.							
	Design						90	90
	Total Funding				C	90C		90C
13	Mililani 4th Elem, Oahu	2GA						
	Plan & construct sixteen classrooms.							
	Construction						579	579
	Total Funding				C	579C		579C
14	Aliamanu Crater Elem, Oahu	3GA						
	Ultimate site plan, plan and construct 1st increment.							
	Design						214	214
	Total Funding				C	214C		214C
15	Maili II Elem, Oahu	3KA						
	Site selection, Master plan & plans for 1st increment.							
	Design						90	90
	Total Funding				C	90C		90C

16	Nanakuli II E.S. Plan and construct 14 classroom bldg, ground and site improvements.	4KD				
	Design			65	65	
	Total Funding		C	65C	65C	
17	Sunset Beach Elementary, Oahu Plan and construct 6 classrooms.	6MA				
	Design			30	30	
	Total Funding		C	30C	30C	
18	Waimea Elem & Inter School So Kohala Hi	7PA				
	Plan classrooms and covered walk; equipment and appurtenances.					
	Design			40	40	
	Total Funding		C	40C	40C	
19	Intermediate Ilima Int School	EDN J7A	103			
	Plan and construct industrial arts and arts and crafts classrooms, ground and site improvements.					
	Construction			790	790	
	Total Funding		C	790C	790C	
20	Kealakehe El & Inter School No. Kona Hawaii	R4A				
	Plans and construction of intermediate classroom bldg—regular and special classrooms, general shop, workroom and toilets, equipment and appurtenances.					
	Construction			768	768	
	Total Funding		C	768C	768C	

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)			
					FY 1975-76 E	C D	FY 1976-77 E	C D E
21	Kauai High and Inter	W5B						
	Plans and construction to renovate the former KCC to classrooms and other facility improvement.							
	Construction						112	112
	Total Funding				C		112C	112C
22	Waipahu Int. School	OKB						
	Plan and construct general and special classrooms, ground and site improvements.							
	Construction						847	847
	Total Funding				C		847C	847C
23	Wheeler Int, Oahu	7FA						
	Plan & construct practical arts building.							
	Construction						411	411
	Total Funding				C		411C	411C
24	High			EDN 104				
	Kaimuki High—Music Building & Improvement.		C5E					
	Plans & construction of new music building & renovation and expansion of existing facilities: to include business or and adult education office area.							
	Design						43	43
	Total Funding				C		43C	43C

25	Leilehua Hi, Oahu Plan & construct additional security lights for all bldgs.	G3J				
	Design			11	11	
	Total Funding		C	11C	11C	
26	Mililani High, Oahu Plan & construct ten classrooms.	G5G				
	Construction			541	541	
	Total Funding		C	541C	541C	
27	Moanalua High Plan and construct 12-classroom building.	G8G				
	Construction			1,049	1,049	
	Total Funding		C	1,049C	1,049C	
28	Radford Hi, Oahu Plan and construct regular and special classrooms funds in Item IE 76, Act 176, SLH 1972 shall be used for this project.	H5D				
	Construction			421	421	
	Total Funding		C	421C	421C	
29	Nanakuli High-Intermediate School Plan and construct general and special classrooms, ground and site improvements.	K8E				
	Construction			1,163	1,163	
	Total Funding		C	1,163C	1,163C	
30	Nanakuli High & Inter, Oahu Plan & construct paved playcourt.	K8H				
	Design			10	10	
	Construction			80	80	
	Total Funding		C	90C	90C	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	FY 1976-77 E	Total Biennium 1975-77 E
31	Kalaheo High, Oahu Plan and construct athletic field and facilities.	N41					
	Construction					449	449
	Total Funding				C	449C	449C
32	Lahainaluna High & Inter Supplementary funds to plan & construct class- rooms and sitework.	T21					
	Construction					223	223
	Total Funding				C	223C	223C
33	Maui High School, Maui Plan and construct auto shop extension to Building E.	T6K					
	Construction					78	78
	Total Funding				C	78C	78C
34	Molokai High & Inter School, Molokai Supplement to prior appropriation to construct music building.	T8A					
	Construction					290	290
	Total Funding				C	290C	290C
35	Molokai High & Inter School, Molokai Plan and construct playfield and parking.	T8B					
	Design					49	49
	Total Funding				C	49C	49C

36	Kauai High & Intermediate Supplement prior appropriation for construction of 12 classroom building.	W5A				
	Construction				574	574
	Total Funding		C		574C	574C
37	Pearl City H S	1JI				
	Plan and construct roadway, ground and site improvements, including sidewalks, street lighting, drainage, sewer and utility connections.					
	Construction				1,746	1,746
	Total Funding		C		1,746C	1,746C
38	Pahoa High & Elem School, Puna, Hawaii	3PC				
	Plans and construction of secondary toilets.					
	Design				10	10
	Construction				88	88
	Total Funding		C		98C	98C
39	Waialua High, Oahu	4F1				
	Plan & construct ten classrooms; demolish buildings.					
	Construction				771	771
	Total Funding		C		771C	771C
40	Waianae HS	5JC				
	Plan and construct 10 classrooms bldg, sewer assessment, ground and site improvements.					
	Construction				899	899
	Total Funding		C		899C	899C
41	Waianae High, Oahu	5JG				
	Renovate and expand administrative facilities.					
	Design				15	15
	Total Funding		C		15C	15C

Item No.	Program and Capital Project	Program ID	APPROPRIATIONS (\$1,000's)							
			Cap. Proj. No.	Org.	No.	FY 1975-76 E	C D	FY 1976-77 E	C D	Total Biennium 1975-77 E
42	Waiakea High (Hilo 2nd high) Hilo, Hi Construction of regular classrooms and special classrooms and shops, covered walkway, parking, access roads, toilets and workrooms, equipment and appurtenances. Plans for Phase IV.	8PB								
	Design							124	124	
	Construction							1,488	1,488	
	Total Funding						C	1,612C	1,612C	
SPECIAL PROGRAMS										
	Special Education			EDN	201					
43	Honokaa High and Elem School, Hamakua, Hi. Plans and construction of two special education classrooms, covered walkway, equipment and appurtenances.	P7A								
	Design							17	17	
	Construction							200	200	
	Total Funding						C	217C	217C	
INSTRUCTIONAL SUPPORT										
	Instructional Media			EDN	301					
44	Highlands Int Air conditioning and renovation of library, chain link fencing and installation of security lights.	J5C								
	Design							20	20	
	Total Funding						C	20C	20C	

45	Laie Elementary, Oahu Plans and construct library.	N9A				
	Design			35	35	
	Total Funding		C	35C	35C	
46	Mililani Uka Elem, Oahu Plan & construct library.	OGC				
	Design			30	30	
	Total Funding		C	30C	30C	
47	Student Services Athletics	EDN 403				
	Mililani High School	G5E				
	Construct athletic field with bleachers and lights.					
	Construction			300	300	
	Total Funding		C	300C	300C	
48	Kalanianaole Elem & Inter School S Hilo, Hi.	P9A				
	Plans and construction of playground and paved playcourts. Funds in Item G52, Act 195, SLH 1975, shall be used to supplement funds for land acquisition and art/music building.					
	Design			15	15	
	Construction			167	167	
	Total Funding		C	182C	182C	
49	Kealakehe Elem & Inter School, N. Kona	R4B				
	Plans and construction of intermediate PE locker shower facility, paved playcourts, equipment and appurtenances.					
	Design			45	45	
	Total Funding		C	45C	45C	

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)			
					FY 1975-76 E	C O D	FY 1976-77 E	C O D
50	Keaukaha Elem School, Hilo, Hawaii	R5A						
	Planning and construction—playground improvements. Fill and level 2.25 acres.							
	Design					8		8
	Construction					41		41
	Total Funding				C	49C		49C
51	Konawaena Elem School, North Kona, Hawaii	R7A						
	Plans and construction of elementary playground and paved playcourts (4).							
	Construction					200		200
	Total Funding				C	200C		200C
52	Konawaena High	R8A						
	Plans and construction of PE locker shower facility and classrooms (2). Equipment and appurtenances. Demolish building.							
	Construction					1,092		1,092
	Total Funding				C	1,092C		1,092C
53	Pahoa High & Elem School, Puna, Hawaii	3PD						
	Plans and construction of elementary playgrounds and improvements to secondary athletic field.							
	Design					13		13
	Total Funding				C	13C		13C

54	Waialua, Hi Construction and equipment for a new gym-natorium.	4FK				
	Design		10		10	
	Construction		1,790		1,790	
	Total Funding	C	1,800C		1,800C	
55	Waiakea High (Hilo 2nd High) Hilo, Hi Construction of paved playcourt.	8PB				
	Construction		61		61	
	Total Funding	C	61C		61C	
	School Food Services	EDN	405			
56	Ewa Elementary Construct serving kitchen-dining room, demolition of old kitchen, ground and site improvements. Note: Plans completed.	J3A				
	Construction		200		200	
	Total Funding	C	200C		200C	
57	Honowai Elementary Plan and construct multi-purpose dining room, ground and site improvements.	J6A				
	Construction		150		150	
	Total Funding	C	150C		150C	
58	New Hanalei School Plan and construct kitchen with multi-purpose dining room with furniture and equipment.	W1D				
	Construction		566		566	
	Total Funding	C	566C		566C	
59	Mililani Uka Elem, Oahu Plan & construct serving kitchen & dining room.	OGB				
	Construction		541		541	
	Total Funding	C	541C		541C	

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Org.	No.	FY 1975-76 C D E	FY 1976-77 C D E
60	Lanikai Elementary, Oahu Plan and construct multi-purpose dining room.		OMA				
	Design					20	20
	Total Funding					C	20C
61	Pohakea E.S.		3JC				
	Plan and construct multi-purpose dining room, paved playcourt ground and site improvements.						
	Construction					440	440
	Total Funding					C	440C
62	Waiau II E.S.		5KC				
	Plan and construct serving kitchen-multi pur- pose dining room, paved playcourts, ground and site improvements.						
	Design					40	40
	Total Funding					C	40C
63	Waiakea High (Hilo 2nd High) Hilo, Hi		8PB				
	Construction of cafeteria, parking and access road.						
	Construction					1,240	1,240
	Total Funding					C	1,240C
	Institutional Support						
	School Administration			EDN	507		
64	Mililani Hi, Oahu		G5H				
	Plan & construct administration bldg.						
	Construction		*			317	317
	Total Funding					C	317C

65	Campbell H.S.	J2D				
	Plan and construct administration bldg, resource room, relocation of utilities, ground and site improvements.					
	Construction		619	619		
	Total Funding		C	619C	619C	
66	Kapiolani Elem School, Hilo, Hawaii	ROA				
	Plans and construction of bus loading and unloading shelter and access and parking.					
	Design		19	19		
	Construction		175	175		
	Total Funding		C	194C	194C	
67	Mililani Uka Elem, Oahu	OGD				
	Plan & construct administration building.					
	Design		15	15		
	Total Funding		C	15C	15C	
68	Pahoa High & Elem School, Puna, Hawaii	3PB				
	Acquisition of land 9 acres approx.					
	Land acquisition		316	316		
	Total Funding		C	316C	316C	
69	Waipahu Elementary	8JB				
	Construction of one story administration and library buildings, demolition of existing administration—library, ground and site improvements.					
	Construction		101	101		
	Total Fundings		C	101C	101C	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
	Public Service Public Libraries		EDN	602			
70	Waimea Community School Library	X02					
	Plans and construction of a community-school library located on school grounds, temperature humidity and acoustical controls total media capacity.						
	Construction					605	605
	Total Funding				C	605C	605C
71	Hana Community-School Library	X04					
	Plans and construction of a community-school library located on school campus to service community and school to include temperature and humidity controls and media capabilities.						
	Design					56	56
	Total Funding				C	56C	56C
72	Mililani Community Library	X06					
	Plan and construct a community library.						
	Land Acquisition					100	100
	Total Funding				C	100C	100C
73	SLIM and TAC Facilities, State Lib Sys	X31					
	Renovate existing schools for SLIM and TAC branches.						
	Construction					382	382
	Total Funding				C	382C	382C

HIGHER EDUCATION

University of Hawaii, Manoa
Instruction — UOH, Manoa

UOH 101

74	Art Facilities	004				
	Art facilities, University of Hawaii, Manoa Campus construction of a facility to house the art department, accommodate the 1975 enrollment increase and to provide a remedy for the existing deficiencies within the present instructional facilities. Approx. 145,000 GSF; 80,770 ASF.					
	Construction			250	250	
	Total Funding		C	250C	250C	
75	Medical School Development	039				
	Medical School Development, University of Hawaii at Manoa. Development of facilities for a 4-year medical school. Facilities to be developed at community hospitals and at Leahi Hospital in accordance with affiliation agreements and federal grant requirements, including supplemental funds of \$350,000 for completion of the John A. Burns School of Med. facil. at Queen's Med. Ctr.					
	Design			6	6	
	Construction			444	444	
	Total Funding		C	450C	450C	
76	Agricultural Sciences Facilities, Phase 2	043				
	Agricultural sciences facilities, Phase 2, University of Hawaii, Manoa Campus. Construction of facilities to house the Departments of Agricultural Biochemistry, Food Science and Technology, and Food and Nutritional Sciences. Approx. 104,000 GSF; 63,000 ASF.					
	Design			160	160	
	Total Funding		C	160C	160C	

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)					
				Org.	No.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium C D E	
77	Law School Development Construction of classrooms, seminar rooms, offices, library and other appurtenant facilities required by the law school. Approx. 49,000 ASF; 78,400 GSF.	045							
	Design								
	Total Funding					C	99	99	99
	Organized Research—UOH, Manoa		UOH 102				99C		99C
78	HIMB—Coconut Island, New Laboratory Build New laboratory building at Coconut Island. Construction of a new laboratory building to accommodate expansions of the Marine Sciences Program. Approx. 6,150 GSF; 4,100 ASF.	111							
	Design								
	Total Funding					C	75	75	75C
79	Marine Expeditionary Center, Phase I Marine Expeditionary Center, completion of Phase 1, University of Hawaii, Snug Harbor. Completion of the Phase 1 site work and building, including purchase of furniture and equipment.	116							
	Design								
	Construction						50	50	
	Total Funding					C	2,550	2,550	2,600C
80	Mauna Kea Obs. Mid-Level Facilities, Ph 2 Mauna Kea observatory, mid-level facilities. Phase 2 University of Hawaii, Institute for Astronomy. Construction of housing, office &	119							

lab facilities on the slopes of Mauna Kea to accommodate observatory personnel.

Design	37	37
Construction	963	963
Total Funding	C	1,000C

81 H1MB, Coconut Island, Electrical System 125

New electrical system for H1MB facilities on Coconut Island. Installation of underwater cables, transformer station, and rewiring of H1MB facilities, to take care of expanding needs and replacement of old deteriorating wiring.

Design	43	43
Total Funding	C	43C

82 Cancer Center of Hawaii Facility 127

Cancer Center of Hawaii facility plans, construction and equipment for a building approximately 27,000 sq ft adjacent to Queen's Medical Center to house the many varied activities of cancer research and control.

Construction	300	300
Total Funding	C	300C

Institutional Support--UOH, Manoa UOH 106

83 Major CIP Planning 239

Major CIP planning, University of Hawaii at Manoa. Continuing studies, research, and advanced planning of major facilities and utilities for the Manoa based programs to enable the preparation of more definitive program plans and cost estimates for budgeting and in seeking federal funds.

Design	100	100
Total Funding	C	100C

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium C D E
84	Minor CIP Projects	240					
	Minor CIP projects, University of Hawaii at Manoa. Planning, constructing and equipping of minor improvements, including the construction of new facilities as well as modifications to existing structures of the Manoa based programs. Improvements are necessary to provide more efficient utilization of existing spaces and to create new spaces for changing and expanding programs.						
	Design					20	20
	Construction					280	280
	Total Funding				C	300C	300C
85	General Utilities and Site Improvements	241					
	General utilities, roads and site improvements, University of Hawaii at Manoa. Incremental planning and construction of utilities, roads and site improvements on the Manoa campus and Manoa based programs (research centers and other support areas).						
	Design					31	31
	Construction					399	399
	Total Funding				C	430C	430C
86	Cooke Field Re-Lighting	244					
	Cooke Field Re-lighting, University of Hawaii, Manoa Campus. Installation of a new lighting system for Cooke Field.						
	Design					18	18
	Construction					232	232
	Total Funding				C	250C	250C

	University of Hawaii, Hilo Instruction—UOH, Hilo		UOH	201			
87	Instruction—UOH, Hilo	302					
	Construction and equipment of classroom.						
	Construction				1,180	1,180	
	Total Funding		C		1,180C	1,180C	
88	Classroom Building No. 4	303	UOH	201			
	Classroom Building No. 4						
	University of Hawaii at Hilo, Hilo College						
	Providing equipment for a classroom building						
	for the social sciences and humanities pro-						
	grams. Approx. 20,000 GSF; 15,000 ASF						
	Construction				187	187	
	Total Funding		C		187C	187C	
89	Phys. Ed., Intramurals & Athletic Fac., Ph 2	311					
	Physical Education, Intramurals and Athletic						
	Facilities, Phase I						
	University of Hawaii at Hilo, Hilo College						
	Incremental construction of physical education,						
	athletic, intramurals and recreational facilities.						
	Approximately 30,000 GSF						
	Construction				1,850	1,850	
	Total Funding		C		1,850C	1,850C	
90	Athletic Fields, Phase 1	313					
	University of Hawaii at Hilo						
	Incremental planning and construction of out-						
	door playfields to provide adequate facilities						
	for physical education, intramurals, athletics						
	& recreational programs.						
	Design				20	20	
	Construction				280	280	
	Total Funding		C		300C	300C	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)			
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	C D	FY 1976-77 E	C D
91	College of Agriculture Facilities Construction of College of Agriculture, UOH, Hilo campus.	315						
	Design					58		58
	Construction					942		942
	Total Funding				C	1,000C		1,000C
92	Tennis Courts	316						
	Tennis courts, University of Hawaii, Hilo cam- pus plans and construction of tennis courts							
	Design					23		23
	Construction					337		337
	Total Funding				C	360C		360C
	Student Services—UOH, Hilo		UOH	205				
93	Student Housing, Phase 5	406						
	Student Dormitories, Phase 5							
	University of Hawaii at Hilo, Hilo College							
	Construction of a student housing facility to accommodate 256 students.							
	Approx 63,400 GSF; 42,200 ASF							
	Construction					890		890
	Total Funding				E	890E		890E
	Institutional Support—UOH, Hilo		UOH	206				
94	Portable Building Minor CIP & Sitework	435						
	Portable buildings, minor CIP, general utilities & sitework at Hilo College & Hawaii Community College. Plans & construction of additional portables to meet program needs, modifica- tions to existing facilities for more efficient use							

of spaces & to create new spaces to accommodate program changes, incremental construction of utilities, sitework & other minor improvements.

Design		58	58
Construction		942	942
Total Funding	C	1,000C	1,000C

Honolulu Community College
Instruction—Honolulu Community College UOH 301

95 Honolulu CC—Modernization and Renovation A09

Modernization and renovation of existing facilities, Honolulu Community College
Plans, construction, furniture and equipment to modify, renovate and improve existing facilities to meet program requirements and provide for the expansion of the college programs.

Design		59	59
Construction		528	528
Total Funding	C	587C	587C

96 Honolulu CC—Classroom Building A11

Plans, construction, furniture & equipment of a building for general education & transfer programs including classrooms, laboratories, special classrooms & faculty offices. Approximate area 25000 SF. These funds may be used to construct additional floors to campus center bldg. To supplement Act 68, SLH 1971, Item C-124 funds.

Construction		750	750
Total Funding	C	750C	750C

	Construction		366	366
	Total Funding		366C	366C
100	Leeward CC—Engr Trades Bldg D3 & D4 L06 Supplemental appropriations for the plans, construction furniture & equipment of a building for vocational-technical programs. Ft. building for the vocational-technical programs to be supplemented by unexpended balances in Act 68, SLH 1971. HEM C-132.	C		
	Design		77	77
	Construction		123	123
	Total Funding		200C	200C
	Institutional Support—Leeward CC	UOH	325	
101	Leeward CC—Land Acquisition L74 Acquisition of the navy drum storage area for the expansion of Leeward Com Coll as master planned. Funds requested are estimated cost of relocating and/or replacement of navy facil. Area equals 44 acres	C		
	Land Acquisition		2,000	2,000
	Total Funding		2,000C	2,000C
	Windward Community College			
	Institutional Support—Windward CC	UOH	335	
102	Windward CC—New Campus W01 Windward Community College—New Campus Development Plans construction and equipment for the incremental development of a new campus. Initial development for approximate enrollment of 2000. Campus to be designed for 5000.	C		
	Design		403	403
	Total Funding		403C	403C

	Student Services—Maui Community College	UOH 504			
105	Maui CC—Student Housing Planning and design for a student housing facility to accommodate approximately 120 students.	M53			
	Design		200	200	
	Total Funding	C	200C	200C	
	Institutional Support—Maui Community Col	UOH 505			
106	Maui CC Minor Capital Improvements Minor Capital Improvements—Maui Community College Plans and construction furniture and equipment for new construction and modifications and improvements to existing facilities	M50			
	Design		10	10	
	Construction		85	85	
	Total Funding	C	95C	95C	
	Kauai Community College				
	Public Service—Kauai Community College	UOH 602			
107	Kauai CC—Community Service Facilities Kauai Community College—Community Service Facilities Plans, construction, furniture and equipment for facilities to accommodate the community service programs including extension services to consist of classrooms, lecture, demonstration and meeting rooms, specialized classrooms and offices. Phase II—Community Theatre	K51			
	Construction		315	315	
	Total Funding	C	315C	315C	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)					
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	C D	FY 1976-77 E	C D	Total Biennium 1975-77 E	C D
	Institutional Support—Kauai CC		UOH	605						
108	Kauai CC—Site Development	K81								
	Kauai Community College—Site Development									
	Plans and incremental construction for the development of the new campus, including clearing, grading, utilities, roadways, parking, landscaping and athletic fields.									
	Design							18	18	
	Construction							100	100	
	Total Funding					C		118C	118C	
	University of Hawaii System-Wide Support									
	Institutional Sptt—UOH, System-Wide Sp		UOH	903						
109	University System Planning, Statewide	001								
	Plans and studies to determine the needs for additional campuses, impact studies, evaluations of sites, master planning and projects program development and planning. (To be expended by the University of Hawaii).									
	Design							241	241	
	Total Funding					C		241C	241C	

H. CULTURE AND RECREATION

CULTURAL ACTIVITIES

Collections, Historical Sites and Studies

LNR—Historical & Archaeological Places

LNR 801

- I Statewide Historic Preservation Program F10
 Incremental development of comprehensive state-wide historic preservation survey, plans, re-

search, and preservation of Hawaii's historic places, structures and objects.

	Land Acquisition		150	150
	Total Funding	A	150A	150A
2	Iolani Palace Restoration	F11		
	Incremental research, planning, preservation, restoration and interpretation of Iolani Palace, barracks, grounds, and appurtenances as a historic restoration complex.			
	Design		100	100
	Construction		900	900
	Total Funding	A	1,000A	1,000A
3	Lapakahi North Kohala State Park Complex	F13		
	Land acquisition, planning, research, and incremental development of the North Kohala archaeological and historic sites. Includes Lapakahi, the second most important archaeological area in the state, offering an opportunity for public interpretation of early Hawaiian fishing & farm system. Lapahaki to also be orientation center for King Kamehameha's birth place, heiau & other features in the area.			
	Design		30	30
	Construction		180	180
	Total Funding	C	210C	210C
4	Kealakekua Bay	F14		
	Incremental acquisition, planning and research for a major park comprising the most important historic and archaeologic place in the entire state, planning and research will be followed by park development, continued research and interpretive facilities. The project is timed so that the key facilities will be in operation by 1978 the 200th anniversary of Captain Cook's Landing.			
	Construction		250	250
	Total Funding	C	250C	250C

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)						
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	C D	FY 1976-77 E	C D	Total Biennium 1975-77	C D	E
	Other Natural Features		LNR	803							
5	Wailua River State Park (Fern Grotto)	F31									
	Refurbish and replace existing facilities and improve safety measures regarding loose rock and flood hazards using existing funds. Develop an interpretive program in the future.										
	Design							15	15		
	Construction							185	185		
	Total Funding					A		200A	200A		
6	Diamond Head	F37									
	Master plan of this existing park. Anticipated improvements may include trail development, parking, landscaping and an interpretive program. Construction of restroom and other immediate needs.										
	Design							15	15		
	Total Funding					C		15C	15C		
	Cultural and Artistic Events										
	Performing & Visual Arts Events		BUF	881							
7	Performing and Visual Arts Events	GRA									
	Works of art for state building to comply with the first circuit court's order dated 1/30/75 in the case of Kalihi-Palama Culture & Arts, Inc. vs. Kenam Kim Civil No. 42461										
	Construction							170	170		
	Total Funding					A		170A	170A		

RECREATIONAL ACTIVITIES**Outdoor Activities****Inland-Based Activities**

LNR 804

8	Hawaii Game Management Facilities Incremental Development of game management facilities including construction of hunter access roads, game water units, game range improvements, exclosures, hunter facilities, signs and markers.	C02		A	6 6A	6 6A
9	Honolulu Game Management Facilities Incremental development of game management facilities include construction of hunter access roads, game water units, game range improvements, exclosures, hunter facilities, signs and markers.	C04		A	2 2A	2 2A
10	Importation of Gamebirds to Hawaii Importation of game birds to the island of Hawaii including selection of species, search for stock, preparation of environmental impact statement if required, request for and approval of importation permits, preparation of regulation for importation, public hearing process, acquisition of stock, release and follow up to assess success.	C10		A	5 5A	5 5A

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)			
					FY 1975-76 E	C O D	FY 1976-77 E	C O D
11	Forest Trails	D02						
	Forest Trails. Trails are constructed, on an incremental basis, primarily by forestry with summer students. Trails are at least 2 feet wide with hazardous spots corrected. Trails provide remote outdoor recreation including hunting, fire and pest control access, and occasionally route for rescue operations. Breakdown by program: other inland-based outdoor activities--75%, forests and open spaces 25%.							
	Design					9		9
	Construction					48		48
	Total Funding		A			57A		57A
12	Kokee State Park	F46						
	Continued park development and replacement of older facilities.							
	Design					20		20
	Total Funding		A			20A		20A
13	Waianapanapa State Park	F55						
	Incremental acquisition & development of major park with outstanding scenic and historic values including picnic areas, campground and low cost vacation facilities.							
	Land Acquisition					400		400
	Design					35		35
	Total Funding		A			435A		435A

14	Hana Road State Waysides Parking development and plantings, grading and paving of parking areas, and improvements to Kaumahina wayside. Replace and improve water and sewage systems.	F59				
	Design		25		25	
	Construction		150		150	
	Total Funding	A	175A		175A	
15	Aiea Bay, Pearl Harbor, Oahu. (Also referred to as Rainbow Bay) Acquisition, plan, design and development of Aiea Bay, Pearl Harbor, Oahu, into a state park and recreation area.	F83				
	Land Acquisition		1,500		1,500	
	Total Funding	A	1,500A		1,500A	
16	Honolulu Stadium Site Acquisition of lands, planning and development up to 9.17 acres for park and recreational complex in Moiliili on lands of the old stadium site	F97				
	Design		100		100	
	Construction		400		400	
	Total Funding	A	500A		500A	
17	Waimano Gulch, Oahu (Manana-Uka Valley) Planned acquisition and/or development of a park in Waimano Gulch (Manana-Uka Valley) between Pacific Palisades and Pearl City.	HZ9				
	Land Acquisition		500		500	
	Total Funding	A	500A		500A	
18	Sacred Falls Major proposed park. Project description to be determined by master plan being requested	H45				
	Design		100		100	
	Total Funding	A	100A		100A	

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 E	C D	Total Biennium C D E
19	Wawamalu (Queen's) Beach Project to be determined by planning funds being requested	H52					
	Design					100	100
	Total Funding				A	100A	100A
20	Kailua Swimming Pool, Oahu	L19					
	Plans and construction for a new swimming pool and appurtenances.						
	Design					10	10
	Construction					226	226
	Total Funding				A	236A	236A
	DOT—Ocean-Based Activities		TRN	801			
21	Heeia-Kea Boat Harbor Oahu	O30					
	Improvements to the existing Heeia-Kea boat harbor and development of a new boat har- bor on the northwest side of the present mole including dredging, moles, bulkheads, cat- walks, shore facilities, and other improvements. Possible federal aid anticipated in the planning period is approximately \$300,000.						
	Design					80	80
	Total Funding				D	80D	80D
22	Waianae Boat Harbor, Oahu	O50					
	Construction of a new all weather marina in the ocean adjacent to Waianae Regional Park; consisting of dredging entrance channel & portion of harbor & construction of breakwater, groin, rockwall, mooring shore facilities & other improvements. Possible federal aid antici-						

pated in the planning period is approximately \$2,818,000.

Design		252	252
Construction		1,210	1,210
Total Funding	C	1,462C	1,462C

23 Nawiliwili Boat Harbor Kauai OIK

Incremental development of Nawiliwili Boat Harbor, including utilities, mooring facilities, backup area, and other improvement

Design		74	74
Construction		356	356
Total Funding	D	430D	430D

24 Statewide Improvements to Boating Fac. OIS

Improvements to existing boat harbors, and boat refuge areas, including land acquisition and studies of possible new sites.

Design		14	14
Construction		66	66
Total Funding	D	80D	80D

25 Honokuhau Boat Harbor, Hawaii O2H

Incremental development of moorings and shore facilities and other improvements. Unencumbered balances in Section 4, Item A-37, Act 68, SLH 1971, to be used for this project in conjunction with new appropriation, notwithstanding lapsing provisions of Act 202, SLH 1972.

Design		86	86
Construction		414	414
Total Funding	D	500D	500D

Item No.	Program and Capital Project	Program ID	APPROPRIATIONS (\$1,000's)					
			Cap. Proj. No.	Org.	No.	FY C O D 1975-76 E	FY C O D 1976-77 E	Total Biennium C O D 1975-77 E
26	Maalaea Boat Harbor Improvements, Maui Additional facilities and other improvements to develop the existing boat Harbor including marginal wharf extension, paving, sprinkler, utilities, planning and other improvements. Federal-State project to modify harbor including navigational changes and additional mooring fac. Possible Federal aid anticipated in the planning period is approximately \$927,000.	O2M						
	Design						80	80
	Total Funding					D	80D	80D
27	Statewide Sewage System Imprv to Boats Fac. Study and implementation of a statewide sewage system for recreational harbors and boating facilities. Implementation costs are dependent upon study findings and recommendations.	O2S						
	Design						43	43
	Construction						207	207
	Total Funding					D	250D	250D
28	Lahaina Boat Harbor Maui Misc improvements to the existing Lahaina Boat Harbor including marginal wharf, electrical facilities, landscaping and other improvements	O3M						
	Design						20	20
	Construction						95	95
	Total Funding					D	115D	115D

29	Statewide Boat Launching Fac. Improv.	O3S				
	FY77-Misc. Statewide improv. to boat launch. fac. including design of fac. at Waimanalo, Barbers Pt., South Kona, Kihei, and Milolii, and construction at Nawiliwili and Mala. Beyond FY77-Design and constr. of boat launch. fac. at Waimanalo, Barbers Pt., S. Kona, Kihei, Waianae, Hanalei, Kawaihae, Sand Is., Pearl Harbor, Keaukahua, Kailua, Oahu N. Shore, E. Molokai, Puna, Ka'u, La Perouse, Keehi Lagoon, Kikiaola, Heeia-Kea, Kaunakakai.					
	Design		95		95	
	Construction		455		455	
	Total Funding	C	550C		550C	
30	New Lahaina Boat Harbor Maui	O4M				
	Dev. of a new marina outside of Lahaina historic landmark district. Unencumbered balance in Sect. I Item E21 Act 195/65, Sect. I Item C40 Act 217/67, Sect. I Item C57 Act 155/69, Sect. I Item C47 Act 187/70, Sect. 4 Item A39 Act 68/71, Sect. 6 Item H16 Act 218/74, & Sect. 8 Item H17 Act 195/75 to be used in conjunction with new apprn notwithstanding lapsing. Federal aid anticipated is approx. \$1,730,000.					
	Design			1		
	Total Funding	D		1D		
31	Kawaihae Boat Harbor Hawaii	O6H				
	Planning and incremental construction of a boat harbor offshore from the existing coral stockpile, including dredging, protective structures, moorings and shore facilities and other improvements.					
	Possible Federal aid anticipated in the planning period is approximately \$891,000.					
	Design		80		80	
	Total Funding	D	80D		80D	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY 1975-76 E	FY 1976-77 E	Total Biennium 1975-77 E
	LNR—Ocean-Based Activities		LNR	805			
32	Makua-Kaena Point State Park			F72			
	Incremental acquisition of private lands, development of beach parks from Makua to Mokuleia. Also include funds for temporary management of shoreline areas to control existing public use.						
	Land Acquisition				800	800	
	Construction				270	270	
	Total Funding				C	1,070C	1,070C
33	Haena Beach State Park		F74				
	Incremental acquisition of land and incremental development as overnight campground, picnic area, swimming beach, hiking trails. Development to be low density and rustic so as not to detract from values of site. Sufficient parking for hikers						
	Design				50	50	
	Total Funding				A	50A	50A
34	Makena-Laperouse State Park, Maui		F75				
	Plans and construction, including acquisition of land, to supplement prior appropriations.						
	Land Acquisition				300	300	
	Design				35	35	
	Total Funding				A	335A	335A

35	Wailua River State Park (Lydgate)	F76				
	Develop an additional 25 acres for camping on state lands recently designated for park purposes.					
	Construction			100	100	
	Total Funding		A	100A	100A	
36	Na Pali Coast State Park (Polihale)	F78				
	Incremental development of existing beach park.					
	Construction			175	175	
	Total Funding		A	175A	175A	
37	Kaiaka Point	F88				
	Land acquisition and development of beach park at Kaiaka Point, Haleiwa, Oahu master planning					
	Land Acquisition			600	600	
	Design			60	60	
	Total Funding		A	660A	660A	
38	Malae Kahana Beach Park	HTO				
	Planned acquisition and/or development (TMK 5-6-01:7; 5-6-01:6; 5-6-01:4; 5-6-01:5; 5-6-01:14)					
	Land Acquisition			1,000	1,000	
	Total Funding		A	1,000A	1,000A	
	Spectator Events and Shows	BUF	889			
39	Pedestrian Bridge Modifications	BF5				
	Modifications to the pedestrian bridges at the Aloha Stadium					
	Design			19	19	
	Construction			222	222	
	Total Funding		A	241A	241A	

Item No.	Program and Capital Project	Program ID			APPROPRIATIONS (\$1,000's)		
		Cap. Proj. No.	Org.	No.	FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium C D E
40	Modifications for Special Events at Stadium Modifications for concerts, boxing, religious gatherings and other special events to include alterations to the stadium	BF6					
	Design					5	5
	Construction					42	42
	Total Funding				A	47A	47A
41	Stadium Waterproofing & Drainage	BF7					
	Stadium waterproofing & drainage to protect critical areas.						
	Design					19	19
	Construction					222	222
	Total Funding				A	241A	241A
42	Modifications to Aloha Stadium	BF8					
	Modifications to entrances, railings, elevators & other improvements						
	Design					20	20
	Construction					269	269
	Total Funding				A	289A	289A
43	Alterations to Electrical & Plumbing System	BF9					
	Alterations to electrical & plumbing sys to conserve utilities & increase efficiency						
	Design					12	12
	Construction					115	115
	Total Funding				A	127A	127A
44	Stadium Ground Improvements	B11					
	Design and construction of stairways, walk- ways, spinkler system, drainage and other ground improvements						

	Design		26	26
	Construction		157	157
	Total Funding	A	183A	183A
	OVERALL PROGRAM SUPPORT FOR CULTURE & RE			
	LNR General Admin for Culture and Recre	LNR	809	
45	Statewide Resources Development Program	F01		
	Preliminary development of plans for recreational and scenic land, water and underwater resources of the state, including evaluation and use of existing and potential park resources; plans for acquisition, and development of a state park system.			
	Land Acquisition		50	50
	Total Funding	C	50C	50C
	I. PUBLIC SAFETY			
	SAFETY FROM PHYSICAL DISASTERS			
	Man-Made Disasters			
	Prevention of Man-made Disasters	DEF	111	
1	Army National Guard Armory, Pahala, Hawaii	A18		
	Planning and construction of a special designed armory facility of permanent steel and masonry type construction, and including all utilities, access road, parking areas, security fencing, and other supporting features.			
	Design		30	30
	Construction		300	300
	Total Funding	C	132C	132C
		N	198N	198N

Item No.	Program and Capital Project	Cap. Proj. No.	Org. No.	Program ID	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 E	FY 1976-77 E	Total Biennium 1975-77 E
2	Amelioration of Man-Made Disasters	DEF	112				
	Replacement of Disaster Warning Sirens	C12					
	Incremental replacement of civil defense disaster warning sirens, statewide, worn out and unserviceable due to age, use and exposure. This is a continuing program from year to year. Federal matching funds are reimbursable to the state.						
	Construction					32	32
	Total Funding				C	16C	16C
					N	16N	16N
3	Additional Disaster Warning Sirens	C13					
	Incremental installation of additional civil defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities and population shifts. This is a continuing program from year to year. Federal matching funds will be reimbursed to the state.						
	Construction					34	34
	Total Funding				C	17C	17C
					N	17N	17N
K. GOVERNMENT-WIDE SUPPORT							
	EXEC DIRECTN, COORD, & POLICY DEVELOPMEN						
	Office of the Governor			GOV	100		
1	Project Adjustment Fund	GO1					
	To establish a contingency fund for project						

adjustment purposes subject to the provisions of the appropriations act (to be expended by the office of the governor).

	Total Funding		C	3,000C	3,000C
	Policy Development and Coordination				
	Land Use, Physical Plan and Coordination	PED	101		
2	Coastal Zone Management Project—State-wide	CP2			
	For establishment of state policy and development of statewide program for the management, beneficial use, protection and development of the land and water resources of the state's coastal zones. Funds may be matched by federal funds as available.				
	Design			450	450
	Total Funding		C	150C	150C
			N	300N	300N
3	Comprehensive Planning—SCORP	OR1			
	State Comprehensive Outdoor Recreation Plan and Revision Program as a Prerequisite for Continual Receipt of Federal Funds for Recreational Projects				
	Design			100	100
	Total Funding		C	50C	50C
			N	50N	50N
	GENERAL SERVICES				
	Property Management				
	Public Lands Management	LNR	101		
4	Waimanalo Development, Oahu	E04			
	Ongoing program—primarily drainage. House-lots to be developed by HHA.				
	Design			57	57
	Construction			708	708
	Total Funding		D	765D	765D

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID No.	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 C D E	FY 1976-77 C D E	Total Biennium 1975-77 C D E
5	Sand Island	E07					
	Ongoing project. Design being prepared for park and industrial complex. Prior years include consultant services and soil study. Engineering drawings in preparation for access parkway to bid in calendar 1975. Design for closed and lined box drain across foreign trade zone 1975-76; construction 1976-77.						
	Construction					2,905	2,905
	Total Funding				C	2,905C	2,905C
6	State Land Development Program	E15					
	Prepare plans for development of state lands on all islands. \$50,000 allotted for study of youth correctional facility area. Other areas to be studied & planned as necessary.						
	Design					230	230
	Total Funding				D	230D	230D
7	Nawiliwili Coral Fill	E20					
	Design contract in preparation. DOT constructing small boat harbor in part of fill area. To be completed August 1974. Industrial subdivision to be developed FY 75-76.						
	Construction					150	150
	Total Funding				D	150D	150D

Facilities Construction and Maintenance Construction

AGS 221

8	Vineyard Street Garage A parking facility for the mauka portion of the State Capitol complex	A18				
	Design		148	148		
	Total Funding	C	148C	148C		
9	Pearl City Civic Center Expansion of the civic center and a new state office building to provide office space for various state agencies.	A30				
	Design		100	100		
	Total Funding	C	100C	100C		
10	Kona State Office Bldg. A new state office building in the existing Kona Civic Center for various agencies to include offsite utilities and roadway improvements	A31				
	Construction		557	557		
	Total Funding	C	557C	557C		
11	Kaneohe State Office Bldg. A new site and state office building to provide office space for various state agencies.	A37				
	Land Acquisition		885	885		
	Design		123	123		
	Total Funding	C	1,008C	1,008C		
12	New State Office Bldg. No. 2 Des. and Const A new state office building in the capitol complex	A40				
	Design		183	183		
	Total Funding	C	183C	183C		

Item No.	Program and Capital Project	Cap. Proj. No.	Org.	Program ID	APPROPRIATIONS (\$1,000's)		
					FY 1975-76 <small>E</small>	FY 1976-77 <small>E</small>	Total Biennium <small>E</small>
13	Wahiawa Civic Center, Oahu Expansion of the Civic Center and a new state office building to provide space for various state agencies	A42					
	Design				42	42	
	Total Funding				C	42C	42C
14	Addition to Lihue S.O. Bldg. Des. and Cons Additional offices on the third floor of the state office building	A46					
	Design				12	12	
	Construction				572	572	
	Total Funding				C	584C	584C
15	State Office Building No. 3 A new state office building in the State Capitol complex for various agencies	A47					
	Design				342	342	
	Total Funding				C	342C	342C
16	Maint and Svc Facil Hilo DAGS maintenance building and related work. Complex developm and first increment design and construction	A52					
	Design				5	5	
	Construction				814	814	
	Total Funding				C	819C	819C
17	Makawao-Paia Civic Center A new site and state office building to accommodate various state agencies	A78					
	Design				35	35	
	Total Funding				C	35C	35C

18	Kalihi-Palama Civic Center New site and state office building to house various state agencies	A90				
	Design		49	49		
	Total Funding		49C	49C		
19	Remodeling State Office Spaces Remodeling and upgrading stat office spaces, statewide.	A91	C			
	Design		170	170		
	Construction		1,386	1,386		
	Total Funding		1,556C	1,556C		
20	Advance Planning, Statewide To prepare reports such as system development, project development, site selection, State Capitol complex policy committee, staff study, CIP assistance, building inventory, State Capitol complex plan review, office space inventory, office space layout, analysis of lease request, analysis of office space request in state buildings and other planning projects.	A92				
	Design		100	100		
	Total Funding		100C	100C		
21	Kekuanaoa Bldg (old state office bldg) Plans, construction, furniture, refurbishing and equipment for office space for judiciary, ombudsman and legislative auditor.	B02	C			
	Design		20	20		
	Construction		589	589		
	Total Funding		609C	609C		
22	H1 State Capitol Complex Master Plan Implementation of Hawaii State Capitol complex master plan, including landscaping and general site improvements.	B05				
	Design		50	50		
	Construction		450	450		
	Total Funding		500A	500A		

ACT 226

SECTION 88B. The following sums of money or so much thereof as may be necessary are hereby appropriated, out of moneys in the treasury received from general revenues to be expended by the department of accounting and general services for the projects listed below.

1. Law School Facilities, UH Manoa	838,000
Plans, construction and equipment for interim Law School facilities and for facilities for programs displaced by the Law School at the University of Hawaii, Manoa Campus. This Appropriation shall supplement prior appropriations for the development of Law School Facilities authorized by Act 218, SLH 1974, and Act 195, SLH 1975. [Vetoed]	
2. Correctional Facilities	10,181,000
Planning and construction of Intake Service Center/Community Correctional Center for Oahu, Hawaii, Kauai, Maui and the Oahu High Security Facility. The unexpended balances from Item G-2, Adult Furlough Center, Section 4, Act 68, SLH 1971 may also be used."	

SECTION 7. Act 195, Session Laws of Hawaii 1975, is amended by adding thereto a new Part VIA reading as follows:

"PART VIA. GENERAL PUBLIC IMPROVEMENTS

SECTION 91E. The following sums or so much thereof as shall be sufficient to finance the projects herein contained are hereby appropriated or authorized as the case may be, for the fiscal year beginning July 1, 1976 and ending June 30, 1977, to be expended by the Department of Accounting and General Services, unless otherwise specified in the subsection, out of moneys in the treasury received from general obligation bond funds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein, provided that the sum total of the general obligation bonds so issued shall not exceed \$38,250,000.

II. COUNTY OF HAWAII

A. DEPARTMENT OF AGRICULTURE

1. Agricultural Facility, Hilo Airport, Hawaii	30,000
Plans and construction of multi-purpose shed for use by farmers at Hilo, Airport.	

B. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

1. Puna-Ka'u Historic Preservation Program, Hawaii	25,000
Incremental development of comprehensive statewide historic preservation survey, plans, research and preservation of Hawaii's historic places, structures, and objects.	
2. Hulihee Palace Restoration, Kona, Hawaii	20,000
Grant-in-aid to the Daughters of Hawaii. Planning and construction for restoration of Hulihee Palace in Kailua-Kona, Hawaii.	

C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

1. Civil Air Patrol Facility, Hilo Airport, Hawaii	30,000
Plans and construction for multi-purpose building for use by Civil Air Patrol, located next to National Guard Hangar at Hilo Airport, Hilo, Hawaii.	

2. State Route 240, Mamane Street, Honokaa, Hawaii Plans and construction of stabilization and slope protection.	20,000
3. Puna and Ka'u Boat Launching Facilities Improvement, Hawaii Design and construction of boat launching facilities in Puna and Ka'u.	25,000
4. Hilo Bay/Wailoa River Area, Hawaii Plans and construction for boat repair and emergency ramp facilities for the Hilo Bay/Wailoa River area.	50,000

E. UNIVERSITY OF HAWAII

1. University of Hawaii Extension Services, Kona, Hawaii Planning and construction for repairs, renovation, and termite treatment of the Extension Service building.	25,000
2. University of Hawaii Library Improvements, Hilo, Hawaii Design, renovation and fumigation of University of Hawaii at Hilo Library, including installation of air conditioning system.	100,000

F. DEPARTMENT OF EDUCATION

1. Hilo High School Track Field Improvements, Hawaii Plans and construction for improvement of drainage and repair of track field at Hilo High School.	65,000
2. Ka'u High and Elementary School, Hawaii Plans and construction for classrooms and additional education facilities.	50,000
3. Keaua Elementary and Intermediate School, Hawaii Plans and construction for classrooms and additional education facilities.	25,000
4. Konawaena High and Intermediate School, Hawaii Planning and construction of paved play courts to replace existing courts that are to be demolished for construction of a new physical education building.	100,000
5. Konawaena High and Intermediate School, Hawaii Planning and construction of an athletic field. Unexpended and unencumbered balances in Item III-K-11 of Act 176, SLH 1972, to be used for this project in conjunction with new appropriation.	250,000
6. Mt. View Elementary and Intermediate School, Hawaii Plans and construction for classrooms and additional education facilities.	25,000
7. Paauilo School, Hawaii Plans and construction to cover the sheltered playcourt.	10,000
8. Pahoa High and Elementary School, Hawaii Plans for a six classroom elementary school building, workroom, toilets, covered walkway, equipment, and appurtenances.	50,000
9. Waiakea Waena Elementary School, Hawaii Construction funds for expansion of the school library.	30,000

G. DEPARTMENT OF HAWAIIAN HOME LANDS

(To be expended by the Department of Hawaiian Homes)

1. Hawaiian Home Lands Improvements, Hawaii Plans and construction for improvements to Keaukaha/Waiakea/Panewa Hawaiian Homes Project. To supplement prior appropriation.	50,000
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H. DEPARTMENT OF HEALTH

1. Compressed Air Quality Analyzers, Hawaii The purchase of compressed air quality analyzers for safety purposes.	25,000
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ACT 226

2. Hilo Hospital Improvements, Hawaii	162,000
Plans and construction for reroofing and repair of Hilo Hospital and Resident Buildings.	
3. Kona Hospital Road, Hawaii	55,000
Planning, land acquisition and construction for improvements to road leading from Mamalahoa Highway to Kona Hospital.	
4. Kona Hospital, Hawaii	70,000
Planning and construction of a leadlined x-ray storage room.	
5. Honokaa Hospital, Hawaii	350,000
Design and construction to replace non-conforming facilities at Honokaa Hospital. To be expended by the Department of Health.	

DEPARTMENT OF SOCIAL SERVICES AND HOUSING

I. DEPARTMENT OF SOCIAL SERVICES AND HOUSING

1. Employees Housing, Hawaii	60,000
Plans and construction for two employee housing complexes. Site to be determined by the Hawaii Housing Authority and in consultation with Kohala Task Force. To be expended by the Hawaii Housing Authority.	

J. DEPARTMENT OF DEFENSE

(To be expended by Department of Defense)

1. Puna, Ka'u Disaster Warning Sirens, Hawaii	23,000
Plan and construction for incremental installation of additional civil defense disaster warning sirens, to expand the coverage of warning system.	

N. COUNTY OF HAWAII

(To be expended by County of Hawaii)

1. Flood Control-Honokaa Drainage Improvement, mamane and Ohia Street, Hawaii	50,000
Land acquisition, design and construction of drainage improvements.	
2. Kukuihaele Transfer Station, Hawaii	50,000
Design and construction of solid waste transfer station facility.	
3. Hamakua Rodeo Arena, Hawaii	25,000
Land acquisition, design, and construction of Rodeo Arena for Hamakua District.	
4. Street Lights, 3rd District, Hawaii	25,000
Plans and construction.	
5. Homestead Roads, 3rd District, Hawaii	50,000
Plans and construction. To be matched by the County of Hawaii.	
6. Hilo Downtown Improvements, Hawaii	100,000
Land acquisition, planning and construction of improvements in conformity with Hilo Downtown Development Plan.	
7. Kaumana Park, Hawaii	1,000
Design and construction of neighborhood park facilities. Unencumbered balance from item K-22, Act 176, SLH 1972 shall be used to supplement this appropriation. To supplement prior appropriation.	
8. Onekahakaha Beach Park, Hawaii	1,000
Plans and construction for development in accordance with the Master Plan of Onekahakaha Beach Park. Unencumbered balance from item K-23, Act 176, SLH 1972 shall be used to supplement this appropriation. To supplement prior appropriation.	

9. Kaumana Drive Improvements, Hawaii	100,000
Land acquisition, planning and improvements to Kaumana Drive. To supplement prior appropriation.	
10. Kawili St. Channelization, Hawaii	70,000
Planning and construction of roadway improvements in conjunction with the construction of Waiakea High School.	
11. Hilo Storm Drainage Improvements, Hawaii	40,000
Land acquisition, planning and construction of drainage improvements in conformity with Hilo Storm Drainage Master Plan.	
12. University Heights Park, Hawaii	40,000
Plans and construction of neighborhood recreational facilities to service University Heights area.	
13. Veterans Cemetery, Hawaii	40,000
Design and construction for development of expansion of Veterans Cemetery.	
14. Keaukaha Shoreline Parks, Hawaii	50,000
Design and construction for development of Keaukaha shoreline, shoreline access, trail system. To supplement prior appropriation.	
15. Hoolulu Park, Hawaii	15,000
Construction of 1 mile jogging path.	
16. Hilo Sewage Treatment Plant Expansion, Hawaii	40,000
Planning and construction of expansion of Hilo Sewage Treatment Plant to provide secondary treatment in conformity with PL 92-500.	
17. Waiakea Houselots Interceptor Sewers, Hawaii	30,000
Planning and construction of interceptor sewers to service Waiakea Houselots area.	
18. Hawaii Belt Highway Intersection Improvements, Hawaii	90,000
Plans and construction of intersection improvements at Kulaimanu. To supplement prior appropriation.	
19. Mahukona Beach Park, Hawaii	50,000
Design and construction for renovation of pavilion/restrooms at Mahukona Beach Park.	
20. Puna Police Station Expansion, Hawaii	25,000
Plans and construction for expansion of existing police station facility.	
21. Ka'u Public Safety Facilities, Hawaii	25,000
Planning and construction of Ka'u Public Safety facilities.	
22. Kalapana Beach Park, Hawaii	1,000
Incremental expansion of facilities, including land acquisition. Unencumbered balances in Item III-K-20, Act 176, SLH 1972, to be used in conjunction with new appropriation.	
23. Ka'u Community Recreational Facilities, Hawaii	50,000
Planning, acquisition, and construction of community park facilities. To supplement prior appropriations.	
24. Kalae Park, Hawaii	25,000
Planning and construction of beach park facilities. To supplement prior appropriation.	
25. Ka'u Park Development, Hawaii	1,000
Planning and construction of recreational facilities in Ka'u parks. Unencumbered balances in Item III-K-19, Act 176, SLH 1972, to be used for this project in conjunction with new appropriation.	

ACT 226

26. Panaewa Playground, Hawaii	50,000
Planning and construction of neighborhood park facilities. To supplement prior appropriations.	
27. Keaau Park, Hawaii	50,000
Planning and construction of district park facilities. To supplement prior appropriations.	
28. Pahoa Playground, Hawaii	50,000
Planning and construction of community park facilities. To supplement prior appropriations.	
29. Gilbert Carvalho Park, Hilo, Hawaii	50,000
Plans and construction for improvements to public facilities at Gilbert Carvalho Park.	
30. East Hawaii Emergency Warning System, Hawaii	200,000
Plans and construction for incremental installation of electronic tsunami and emergency early warning system for East Hawaii. To include installation of Microwave System for County of Hawaii Police Dept.	
31. Mt. View Drainage, Hawaii	25,000
Land acquisition, planning and construction of drainage improvements. To supplement prior appropriation.	
32. Waiakea-Uka Flood Control, Hawaii	50,000
Land acquisition and construction of flood control facilities. To supplement prior appropriation.	
33. Pahoa-Pahoiki Road, Hawaii	25,000
Land acquisition, planning and construction for improvement to existing road. To supplement prior appropriation.	
34. Kalapana Escape Road, Hawaii	25,000
Land acquisition, planning and construction of road to replace portion of existing coastal road.	

O. COUNTY OF HAWAII

(To be expended by Water Commission)

1. South Hilo Water Development (City of Hilo), Hawaii	81,000
Plans and construction for incremental development of water system, including source development, pipelines, booster pump station and storage facilities, improvement and replacement of existing facilities and appurtenances and land and source acquisition to upgrade water quality to comply with Safe Drinking Water Act.	
2. Niulii Water System, Hawaii	50,000
Plans and construction.	
3. Honokaa Water System-Trunkline along Loke Street, Hawaii	20,000
Funds to be supplemented from Item 0-3 of Act 195, SLH 1975.	
4. Waimea-Lalamilo Water System, Waimea, Hawaii	100,000
Planning and construction for rehabilitation and improvements to water system.	
5. Napoopoo Water Line, Hawaii	130,000
Planning and construction of a water pipe line from the Captain Cook junction to the Napoopoo Road-Keei Road Junction.	
6. Puna Water Development, Hawaii	100,000
Incremental development of water system, including plans and construction of source development, pipelines, booster pump stations and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition.	

7. Hawaiian Oceanview Estates Water Development, Hawaii Plans and construction for water storage facility tank at park site.	25,000
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III. COUNTY OF MAUI**B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

1. Maui Game Management Improvements Plans and construction for the purchase, nurture, and release of birds, removal of noxious shrubs, incremental water unit development, food plantings, signs and markers, roads & trails, and thinnings and clearings. Unexpended balances in Part IVA, Section 72A, Item II-A-1, Act 218, SLH 1974 will be used to supplement this appropriation.	1,000
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C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

1. Bike Path, West Maui—Plans, land acquisition, and construction of a bike path from Lahaina Civic Center to Puukohola Road. Funds appropriated in Item III, N-2, Act 195, SLH 1975 may be used for this project.	1,000
2. Kamehameha III Highway, Kilohana, Molokai Plans and construction for resurfacing and/or maintenance, and other improvements.	50,000
3. Kalaupapa Settlement, Molokai Plans and construction for realignment, resurfacing, safety improvements, and minor repairs and other improvements of existing Pali Trail to Kalaupapa Settlement.	25,000
4. Honoapiilani Highway, Lahaina Plans and construction for installation of traffic lights at Honoapiilani Highway and Papalaua Street, and other improvements.	80,000
5. Kula Highway, Maui Plans and construction for the widening and resurfacing of highway Kaipoioi Bridge to Keokea. Supplements prior appropriations.	500,000
6. Hana Highway, Kailua to Hana, Maui Plans and construction for Safety improvements, bridge repair and/or replacement and resurfacing from Kailua to Hana. Supplements Administration's Capital Improvements request.	202,000

F. DEPARTMENT OF EDUCATION

1. Kula Elementary School, Maui Plans, construction, extension and improvement of sidewalk, driveway and parking area.	12,500
2. Pukalani Elementary School, Maui Plans and construction for landscaping, ground and site improvements including sprinkler system and other appurtenances.	90,000
3. Maui High School, Maui Plans, construction for a gymnasium and appurtenances. Supplements prior appropriations.	325,000
4. Kahului Library Air Conditioning, Maui Plans and construction for installation of temperature, humidity and acoustical controls. Supplements prior appropriations.	135,000

ACT 226

5. Kaunakakai School, Molokai Plan and construct improvements for library and administration building, and other school improvements.	5,000
6. Kilohana School, Molokai Plan and construct refuse storage area and other improvements.	5,000
7. Kilohana School, Molokai Plans and construction for painting school building and other improvements.	10,000
8. Kualapuu School, Molokai Plan and construct bleachers for baseball field and other school improvements.	5,000
9. Lahainaluna High School, Maui Plan and construct swimming pool on lot below physical education classroom, and other school improvements.	300,000
10. Lanai High and Elementary School, Lanai Plan and construct new custodial storage room, and other school improvements.	10,000
11. Lanai High and Elementary School, Lanai Plan and construct improvements to library and administration building.	15,000
12. Moanalua School, Molokai Construction of chain link fence and other improvements to existing buildings.	35,000
13. Molokai High and Intermediate School, Molokai Construct playfield and parking, and plan and construct other school improvements.	300,000
14. Waihee School, Maui Plan and construct storage room and other school improvements.	5,000
15. Wailuku Elementary School, Maui Plan and construct parking area and other school improvements.	15,000
16. Baldwin High School, Maui Plans and construction for refurbishing interior of Auditorium and upgrade electrical system and other improvements.	100,000
17. Baldwin High School, Maui Plan and construct drama and arts building and other improvements.	100,000
18. Iao Intermediate School, Maui Plan and construct 8 classroom building and other improvements, including parking and street widening for bus use.	200,000
19. Kamehameha III School, Maui Plans and construction for installation of floor tile in 18 classrooms and other improvements.	15,000
20. Kaunakakai School, Molokai Plan and construct custodial workshop, storage room, and other improvements.	10,000
21. Maui Schools, Sixth District, Maui Plans and construction for improvements to existing buildings.	40,000
22. Kahului Elementary School, Maui Plans and construction for the installation of a public address intercom system and program clock.	10,000

H. DEPARTMENT OF HEALTH

1. Molokai General Hospital, Molokai 74,000
 Plan and construct a wooded frame P/T room with patio, and two clinic rooms; install a freezer, steam lines, air conditioning, and other equipment and improvements.

M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

1. Vacuum Cooling Plant, Omaopio, Maui 74,500
 Plans and construction for the improvement and expansion of the vacuum cooling plant including loading dock, parking and roadway security fence, equipment and other appurtenances. Supplements prior appropriations.

N. COUNTY OF MAUI

(To be expended by the County of Maui)

1. Lahaina Community Center, Maui 100,000
 Plans and construction of a Lahaina Community Center and other improvements.

O. COUNTY OF MAUI

(To be expended by the Maui Board of Water Supply)

1. Kaupo Water Project, Maui 150,000
 Plans and construction for incremental development of the Kaupo water project and system, including pipelines, reservoirs, treatment plants and other appurtenances.

IV. CITY AND COUNTY OF HONOLULU**B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by Department of Land and Natural Resources)

1. Freshwater Park, Wahiawa, Oahu 78,500
 Plans and construction for development of park. Unexpended balances in Part VI, Section 91, Item IV-0-7-2 of Act 195, SLH 1975 will be used for this appropriation.
2. Kulouou Valley Park, Oahu 200,000
 Planning, designing, development and construction of recreational and other public facilities and improvements for a park at Kulouou Valley, Oahu.
3. Lahikina Park, Oahu 100,000
 Plans, land acquisition, and construction for development of a state park on Prospect Street, at the site of the previously proposed Lahikina housing project.
4. Makiki-Tantalus State Park Complex, Oahu 100,000
 Supplemental appropriation. Plans and construction of the Makiki-Tantalus State Park Complex.
5. Manana-Uka Valley Park (Waimano Gulch), Oahu 750,000
 Land acquisition, designing, planning and construction of a park in Manana-Uka Valley (Waimano Gulch) Tax Key Map 9-7-25 and 9-6-04, between Pacific Palisades and Pearl City.

ACT 226

6. Paiko Lagoon Park, Oahu	1,000
Acquisition of approximately 15,500 square feet of land, together with the existing road right-of-way, being a portion of tax map key 3-8-01-69, abutting, and generally located west of, existing state-owned parcels; for planning and construction of a fish and wildlife sanctuary and park at Paiko Peninsula, Oahu. Unexpended balances in Item B-5 of Act 176, SLH 1972, Item A-11 of Act 218, SLH 1974, Item B-22-2 of Act 195, SLH 1975, will be used for this appropriation.	
7. 21st. District Parks Development, Oahu	1,000
Plans and construction for development of State facilities, including necessary land acquisition. (To supplement prior appropriations). Unexpended balances in Item I-B-1 of Act 176, SLH 1972, may be used for this appropriation.	
8. Salt Lake Parks and Recreation Facilities, Oahu	250,000
Land acquisition, plans and construction for development, including small parks. To be supplemented by Items IV-N-15-2, IV-N-12-8, IV-N-12-9, IV-N-11-8, IV-N-11-10, and I-B-5 of Act 195, SLH 1975.	
9. Sand Island Development, Oahu	1,000
Plans and construction for development. The Department of Land and Natural Resources shall develop and improve lands and facilities on land dedicated to the University of Hawaii on Sand Island only as required and necessary. Unexpended balance in Item K-5 of Act 195, SLH 1975 may be used for this appropriation.	

C. DEPARTMENT OF TRANSPORTATION

(To be expended by Department of Transportation)

1. Bingham Street, Oahu	150,000
Plans and construction for drainage improvements on Bingham Street from Farrington Street to Isenberg Street. The property owners shall be consulted.	
2. Farrington Highway, Oahu	15,000
Plans and construction for installation of street lights at the bus stops along Farrington Highway between Kahe Point and Waiomea Street.	
3. Farrington Highway Safety Improvements, Oahu	20,000
Plans and construction to pave bus loading area for Waipahu Intermediate on Farrington Highway.	
4. Liliha Mini Park, Oahu	30,000
Land acquisition, plans, and construction for improvements for a temporary park on Lot Reference D-A-10 and D-A-2.	
5. Pali Highway, Oahu	275,000
Feasibility studies towards construction of climbing lanes on Pali Highway.	
6. 21st. District Road and Drainage Projects, Oahu	90,000
Planning, construction and land acquisition for improvement to roads and drainage systems.	
7. 21st. District Highway Projects, Oahu	82,500
Plans and construction, including street lights and traffic control devices along Farrington Highway. (Unexpended balances in Item I-C-1 of Act 176, SLH 1972, may be used for this appropriation.)	

D. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by Department of Planning and Economic Development)

1. Lower Manoa and Makiki Planning Projects, Oahu 40,000
Pre-general plan revision and/or special design district studies for lower Manoa and Makiki.

E. UNIVERSITY OF HAWAII

1. UH, Agee House, Oahu 75,000
Plans and construction for restoration of Agee House.
2. UH, Baseball Field, Manoa Campus, Oahu 10,000
Plans and construction for installation of flag poles.
3. UH, Baseball Field, Manoa Campus, Oahu 250,000
Plans for the construction of grandstand, bleachers, dug-outs, locker/shower/restroom facilities.
4. UH, Hemenway Hall, Manoa Campus, Oahu 100,000
Supplemental appropriation. Plans and construction for renovation and remodeling.
5. Leeward Community College, Oahu 49,750
Plans and construction for purchase and installation of a portable acoustical shell and other accessories to convert Leeward Community College Theater into a concert hall.
6. Windward Community College, Kaneohe, Oahu 25,000
Installation and purchase of equipment for CCTV system.

F. DEPARTMENT OF EDUCATION

1. Aiea Elementary School, Oahu 35,000
Plan and construct paved playcourt.
2. Aiea Elementary School, Oahu 32,000
Plan and construct sprinkling system and ground improvements.
3. Aiea High School, Oahu 238,000
Plan and construct adult education/lecture demonstration building (to supplement Item IV F-16.1 of Act 195, 1975 and Item IV F-12.2 of Act 195, 1975).
4. Aiea Intermediate School, Oahu 100,000
Plan and construct paved playcourt (to supplement Item IV E-86 of Act 218, 1974).
5. Aikahi Elementary School, Oahu 7,000
Plans and construction for improvements of school grounds and the purchase of playground equipment.
6. Aina Haina Elementary School, Oahu 10,000
Plans and construction for covered walkways between the buildings, to supplement prior appropriations.
7. Aina Haina Elementary School, Oahu 10,000
Planning and construction for completion of covered walkway system. (Unexpended balances in Item IV E-1 of Act 218, SLH 1974 may be used for this appropriation.)
8. Aina Haina Elementary School, Oahu 50,000
To supplement prior appropriation, plans and construction to improve and renovate existing library.
9. August Ahrens Elementary School, Oahu 35,000
Plans and construction of paved playcourts.

ACT 226

10. Aliamanu Elementary School, Oahu Plans and construction of a sprinkling system and ground improvements.	1,000
11. Aliamanu Intermediate School, Oahu Plans and construction of a library-media building.	63,000
12. Aliamanu Intermediate School, Oahu Plans and construction of a sprinkling system and ground improvements.	1,000
13. Aliamanu Intermediate School, Oahu Plans and construction of a drainage system.	1,000
14. Aliiolani Elementary School, Oahu Plans and construction for improvements, including repairs and renovations of existing school facilities.	50,000
15. Alvah Scott Elementary School, Oahu Plans and construction to replace glass windows with wooden jalousies.	50,000
16. Alvah Scott Elementary School, Oahu Plans and construction to repave playcourt and replace basketball standards.	40,000
17. Alvah Scott Elementary School, Oahu Plans and construction to replace rain gutters and toilets.	20,000
18. Alvah Scott Elementary School, Oahu Plan and construct sprinkling system and ground improvements.	42,000
19. Alvah Scott Elementary School, Oahu Plan and construct retaining wall and landscape hilly area back of school.	100,000
20. Barber's Point Elementary School, Oahu Plans and construction for campus improvements to include the installation of security lights and fencing.	15,000
21. Campbell High School, Oahu Plans for construction and improvements. Unexpended balances in Item I-E-11 of Act 176, SLH 1972 may be used for this appropriation.	1,000
22. Campbell High School, Oahu Plans and construction for renovation of the existing graphic arts classroom.	25,000
23. Castle High School Athletic Field Improvements, Oahu Plans and construction for athletic field improvements, including installation of new lights for football field.	100,000
24. Castle High School, Kaneohe, Oahu Supplementary funds for construction of auditorium.	400,000
25. Castle High School Cafeteria Improvements, Oahu Plans and construction for renovation of cafeteria.	30,000
26. Castle High School Gymnasium Complex, Oahu Plans and construction for expansion and renovation of present gym to include areas for wrestling, gymnastics and handball, additional seating. (Unexpended balances in Part VI, Item IV-F-3-4 of Act 195, SLH 1975, may be used for this appropriation).	4,000
27. Castle High School Auditorium, Oahu Supplemental funds for construction of auditorium.	375,000
28. Castle High School, Oahu Plans and construction for an auditorium. \$85,000 of the unencumbered balances totalling \$100,000 in Item IV-A-1 of Act 218, SLH 1974, may be used for this project.	1,000

29. Castle High School Auditorium, Oahu Supplemental funds for construction of auditorium.	375,000
30. Castle High School Auditorium, Oahu Supplemental funds for construction of auditorium.	375,000
31. Central Intermediate School, Oahu Construction of classrooms.	51,000
32. Community Library, Oahu Plans and construction for a community library in Waipahu.	107,250
33. Dole Intermediate School, Oahu Plans and construction to complete renovation of band and chorus rooms. Supplements prior appropriation.	40,000
34. Enchanted Lake Elementary School, Oahu Plans and construction for a sprinkler system.	95,000
35. Ewa Beach Elementary School, Oahu Plans and construction for campus improvements to include the installation of security lights and fencing.	25,000
36. Farrington High School, Oahu Plans and construction for improvements, expansion and renovation to existing facilities including library.	100,000
37. Farrington High School, Oahu Plans and construction for improvements to existing administration facilities.	65,000
38. Farrington High School, Oahu Plans and construction for bleachers and the installation of lights.	1,000
39. Farrington High School, Oahu Plans and construction of a gymnastic facility.	130,000
40. Farrington High School, Oahu Plans and construction for improvements to existing auditorium stage.	8,500
41. Farrington High School, Oahu Plans and construction to existing locker room facilities, including the renovation of the physical fitness room and the installation of additional lockers.	25,000
42. Fern Elementary School, Oahu Plans and construction of canopies over existing concrete walkways to connect classroom buildings and cafeteria.	25,000
43. Fern Elementary School, Oahu Plan and construct covered walkways from three buildings to the Library-Administration Building.	75,000
44. Hahaione Elementary School, Oahu Plans and construction for campus beautification, landscaping, site improvements and lighting. (unexpended balances in Item IV, F-23-1 of Act 195, SLH 1975 may be used for this appropriation).	10,000
45. Hahaione Elementary School, Oahu Plans and construction of lanai enclosure for buildings D and E and fenced outdoor activity area for building C.	100,000
46. Hahaione Elementary School, Oahu Planning and construction for portable classroom.	50,000
47. Haleiwa Elementary School, Haleiwa, Oahu Plan and construct sprinkling system and ground improvements.	48,000

ACT 226

48. Heeia Elementary School, Oahu	10,000
Plans and construction for traffic circulation improvements, including paved driveway around basketball court for bus turn-around.	
49. Heeia Elementary School Pedestrian Safety Improvements, Oahu	20,000
Plans and construction for pedestrian safety improvements on Haiku Road, including pedestrian overpass vicinity of Heeia Street.	
50. Heeia Elementary School, Oahu	5,000
Plans and construction for improvements, including multi-purpose rooms.	
51. Helemano Elementary School, Wahiawa, Oahu	39,000
Plan and construct sprinkling system and ground improvements.	
52. Hickam Elementary School, Oahu	25,000
Plans and construction of a security light system.	
53. Hickam Elementary School, Oahu	1,000
Plans and construction of a sprinkling system and ground improvements.	
54. Highlands Intermediate School, Oahu	50,000
Plans and construction for renovations to art classrooms, including ground and site improvements.	
55. Hokulani Elementary School, Oahu	50,000
Plans and construction for improvements and repairs, including reconstruction of catch basins and drainage systems.	
56. Hokulani Elementary School, Oahu	25,000
Plans and construction for improvements and repairs, including the enlargement of the entrance inside school property.	
57. Honowai Elementary School, Oahu	35,000
Plans and construction of playground bleachers.	
58. Honowai Elementary School, Oahu	90,000
Plans and construction for air conditioning and carpeting of library and installation of automatic sprinkler system.	
59. Iliahi Elementary School, Wahiawa, Oahu	18,000
Plan and construct sprinkling system and ground improvements.	
60. Ilima Intermediate School, Oahu	180,000
Plans and construction for the renovation of the existing cafeteria.	
61. Ilima Intermediate School, Oahu	35,000
Plans and construction to install security lights and fencing.	
62. Iroquois Point Elementary School, Oahu	20,000
Plans and construction for campus improvements to include the installation of security lights and fencing.	
63. Kaala Elementary School, Wahiawa, Oahu	42,000
Plan and construct sprinkling system and ground improvements.	
64. Kaahumanu School, Oahu	1,000
Plans and construction for installation of air-conditioning in recently constructed large classrooms and renovation of existing facilities and grounds. To supplement Item IV-F-12-4, Act 195, SLH 1975.	
65. Kaelepulu Elementary School, Oahu	10,000
Plans and construction for water fountains and continuation of existing fencing.	
66. Kahala Elementary School, Oahu	10,000
Plans and construction to complete installation and extension of "L" shaped counter in Administration Building.	

67. Kahala Elementary School, Oahu Plans and construction to extend walkway from Administration Building to Library.	10,000
68. Kahala Elementary School, Oahu Plans to convert old Library to Art and Music facility.	40,000
69. Kahuku High and Elementary School, Kahuku, Oahu Planning and construction for athletic field improvements, including bleacher replacement, plans and construction of sprinkler system, resodding of field, and plans and construction of an announcer's booth.	150,000
70. Kailua Intermediate School, Oahu Plans and construction for improvements in the cafeteria, including a ventilation system.	10,000
71. Kailua High School, Oahu Plans and construction for improvements to the athletic field including the replacement of bleachers and press box. Unencumbered balance in Item IV-N-5-I of Act 195, SLH 1975 may be used for this project.	25,000
72. Kailua High School, Oahu Plans and construction for improvements to athletic field, including replacement of bleachers and press box.	75,000
73. Kailua High School, Kailua, Oahu Installation of fluorescent lighting in cafeteria.	42,000
74. Kailua High School, Oahu Plans and construction for improvements to the athletic field, including astroturf for the track area.	80,000
75. Kaimuki High School, Oahu Plans and construction for chainlink fencing on the Diamond Head side of boundary located on athletic field (Date Street to back entrance of school).	25,000
76. Kaimuki High School, Oahu Plans and construction for improvements to existing facilities, including renovations.	610,000
77. Kaimuki Intermediate School, Oahu Design, planning, site preparation, construction and paving of basketball and volleyball courts.	5,000
78. Kaimuki Intermediate School, Oahu Design, planning, site preparation, construction, and equipment of gymnasium (to supplement prior appropriations).	75,000
79. Kaimuki Intermediate School, Oahu Planning, site preparation, construction and replanting necessary, for a chain link fence along the makai side of Kaimuki Intermediate School between 18th Avenue and 22nd Avenue, between the school grounds and adjacent residential uses and the Diamond Head Memorial Park, to control trespassers access to school grounds.	10,000
80. Kaimuki Intermediate School, Oahu Plans and construction for resurfacing with asphalt, of the service road and adjacent feeder road to school grounds and buildings.	4,000
81. Kaimuki Intermediate School, Oahu Planning, site preparation, and construction, including necessary landscaping, to widen the existing walkway between building L and building J for purposes of safety and to ease congestion.	10,000

ACT 226

82. Kaimuki Intermediate School, Oahu	15,000
Design, planning, site preparation, construction, paving, and equipment of a playground at the former site of the custodial cottage.	
83. Kainalu Elementary School, Oahu	5,000
Plans and construction for improvements in the cafeteria, including a ventilation system.	
84. Kaiser High School, Oahu	100,000
Planning and construction for campus beautification and improvements.	
85. Kaiser High School, Oahu	16,000
Plans and construction for acquisition and installation of athletic lockers.	
86. Kaiser High School, Oahu	350,000
Planning and construction for athletic field completion.	
87. Kalaheo High School, Oahu	15,000
Plans and construction for lockers.	
88. Kalaheo High School, Oahu	1,063,000
Plans and construction of a gymnasium.	
89. Kalani High School, Oahu	100,000
Combine appropriated funds for plans and construction for improvement expansion, and renovation of present physical facilities and grounds, including but not limited to repair of roofs, track and tennis courts, replacement of windows, installation of non-skid strips along stairways and walkways, painting of buildings, cleaning areas overgrown with weeds, renovation and expansion of locker rooms in gym, including shower facilities and rooms for home and visiting teams, renovation of "F" building to include counselors' offices, registrar's office, guidance center, student activities center, and a roof to cover "F" building patio area. Funds appropriated under Part VI, Section 91, items IV, F-24, 9, 10, and 13, Act 195, Session Laws of Hawaii 1975, may be expended for this project.	
90. Kalani High School, Hawaiian Student Center Project, Oahu	100,000
To supplement prior appropriation for site improvements. Funds to be expended for planning and construction; provided that subject to occupational and safety standards, students shall play an active role in the planning and construction of the project, wherever feasible.	
91. Kalihi Elementary School, Oahu	95,000
Plans and construction for improvements to existing covered playcourt, including an overhang to keep out rain, bathrooms, a storage room and light fixtures. The unencumbered balance in Item 12F-10 of Act 195, SLH 1975—plans and construction of ground improvement for additional playground and for covered play area (4,000), will be used to supplement this appropriation.	
92. Kalihi-Palama Library, Oahu	20,000
Plans and construction of an additional bathroom facility adjoining the conference room.	
93. Kalihi-Kai Elementary School, Oahu	1,000
Plans and construction of a cafeteria and sound-proofing classroom buildings H and I.	
94. Kalihi-Uka Elementary School, Oahu	25,000
Plans and construction for expanding existing library.	
95. Kalihi-Uka Elementary School, Oahu	60,000
Plans and construction for renovation and expansion of cafeteria delivery and trash bin area.	

96. Kalihi-Waena Elementary School, Oahu	25,000
Plans and construction for multi-court play facility.	
97. Kaneohe Elementary School, Kaneohe, Oahu	1,000
Plans and construction for renovation of existing buildings, including present library to convert into administration building and fifth grade building to be converted into library, and for extension of mauka road to new building. (Unexpended balances in Item IV-E-158 of Act 218, SLH 1974, may be used for this appropriation.)	
98. Kaneohe Regional Library Improvements, Oahu	15,000
Plans and construction for renovation and expansion to include individualized audiovisual study areas. (Unexpended balances in Item IV-E-162 of Act 218, SLH 1974, will be used for this appropriation).	
99. King Intermediate School, Oahu	1,000
Planning and construction of a resource center/library. (Unexpended balances in Section 72, 72-G, Item 77 of Act 218, SLH 1974 may be used for this appropriation).	
100. Kamiloiki Elementary School, Oahu	50,000
Plans and construction for ground improvements and construction of a chain-link enclosure.	
101. Kapunahala Elementary School, Kaneohe, Oahu	10,000
Plans and construction for installation of air-conditioning for library.	
102. Kauluwela Elementary School, Oahu	10,000
Design, plans and construction of a chain-link fence.	
103. Kawanakanakoa Intermediate School, Oahu	50,000
Plans and construction to cover walkways.	
104. Kawanakanakoa Intermediate School, Oahu	20,000
Plans and construction to improve and restore existing memorial fountain.	
105. Kawanakanakoa Intermediate School, Oahu	50,000
Plans and installation of intercom system.	
106. Kawanakanakoa Intermediate School, Oahu	100,000
Plans and construction to improve existing library. Includes air conditioning.	
107. Kawanakanakoa Intermediate School, Oahu	50,000
Plans and construction of tennis courts to be located between physical education facilities and classrooms.	
108. Keolu Elementary School, Oahu	16,000
Plans and construction for a sprinkler system and concrete walk.	
109. King Intermediate School, Oahu	30,000
Plans and construction for traffic circulation and safety improvements, including pedestrian walkways.	
110. King Intermediate School, Kaneohe, Oahu	50,000
Plans and construction for installation and improvements to locker rooms and classrooms for safety and security reasons.	
111. Kipapa Elementary School, Oahu	13,000
Plans and construction for covered walkway.	
112. Koko Head Elementary School, Oahu	50,000
Plans and construction for completion of the Art, Music and Science Building, including equipment, supplies and fixtures.	

ACT 226

113. Koko Head Elementary School, Oahu	10,000
Plans and construction for installation of black out curtains for the cafeteria stage.	
114. Kuhio School, Oahu	200,000
Plans and construction for repairs, renovations and improvements to existing facilities and grounds.	
115. Jarrett Intermediate School, Oahu	20,000
Plans and construction for improvements and repairs including renovations of the walkway roofs.	
116. Jarrett Intermediate School, Oahu	60,000
Plans and construction for improvements, including repairs, renovations and painting of all necessary buildings.	
117. Jarrett Intermediate School, Oahu	50,000
Plans and construction for re-roofing walkways and classroom buildings.	
118. Jarrett Intermediate School, Oahu	10,000
Plans and construction for improvements, including renovations and repairs of the roofs of the Administration Building, the C-Building, and Band Building.	
119. Jefferson School, Oahu	10,000
Plans and construction of a small concrete play area.	
120. Lehua Elementary School, Oahu	30,000
Plans and construction to install electrical outlets in library and classrooms, and to renovate classrooms to Type II classroom with movable walls.	
121. Leilehua High School, Wahiawa, Oahu	20,000
Supplement prior appropriation to plan and construct covered walkway.	
122. Leilehua High School, Wahiawa, Oahu	75,000
Supplement prior appropriation for planning and construction for repaving front parking lot.	
123. Leilehua High School, Wahiawa, Oahu	102,000
Plan and construct sprinkler system and ground improvements.	
124. Likelike Elementary School, Oahu	40,000
Plans and construction for two additional basketball courts and repaving the existing court.	
125. Likelike Elementary School, Oahu	50,000
Plans and construction for replacing existing cafeteria roof.	
126. Linapuni Elementary School, Oahu	55,000
Plans and construction of roof for existing storage area behind the serving kitchen.	
127. Lincoln Elementary School, Oahu	75,000
Supplemental appropriation to plan and construct improvements to library. Includes air conditioning.	
128. Lincoln Elementary School, Oahu	50,000
Plans and construction to re-align and widen existing driveway.	
129. Lunalilo School, Oahu	50,000
Planning and construction for improvements and additions to existing parking lot.	
130. Maemae Elementary School, Oahu	50,000
Supplemental appropriation for plans and construction for improvements to the existing library.	

131. Maemae Elementary School, Oahu	100,000
Supplemental appropriation for plans and construction of additional parking and loading zones, repair and widening of existing roadway, and installation of covered walkway.	
132. Maemae Elementary School, Oahu	25,000
Design and construction to convert building B into storage room facilities.	
133. Maili Elementary School, Oahu	50,000
Supplementary funding for connection of sewer trunk line.	
134. Makakilo Community Library, Oahu	20,000
Planning and site selection.	
135. Makakilo Elementary School, Oahu	20,000
Plans and construction for campus improvements to include the installation of security lights and fencing.	
136. Makalapa Elementary School, Oahu	1,000
Plans and construction of a sprinkling system and ground improvements.	
137. Makiki District Library, Oahu	3,000
Plans and construction of a library at the Makiki District Park, to supplement Item IV-F-12-6, Act 195, SLH 1975.	
138. Manana Elementary School, Oahu	35,000
Plans and construction for renovations to kitchen floor and installation of ground sprinkler system.	
139. Manoa School, Oahu	35,000
Plans and construction for resurfacing of Play area and realignment of back road to keep vehicular traffic off play area.	
140. Manoa School, Oahu	25,000
Plans and construction for installation of acoustical material in cafeteria.	
141. Manoa School, Oahu	150,000
Plans and construction for repainting of entire school.	
142. Manoa School, Oahu	200,000
Plans and construction for roofing over part of play area to accommodate basketball and volleyball court.	
143. Mauka Lani Elementary School, Oahu	40,000
Plans for constructing a dining room.	
144. Mauka Lani Elementary School, Oahu	10,000
Plans and construction for installation of various playground equipment.	
145. Maunawili Elementary School, Oahu	5,000
Plans and construction for covered walkway from driveway to cafeteria.	
146. Maunawili Elementary School, Oahu	15,000
Plans and construction for installation of rain gutters and improvements to buildings.	
147. McKinley High School, Oahu	25,000
Plans and construction of a swimming pool, 50 meters by 25 yards for community and school use.	
148. McKinley High School, Oahu	600,000
Plans and construction of a new Olympic size community school, (50 meters length and 25 yards width) swimming pool.	
149. McKinley High School, Oahu	25,000
Plans and construction for a 5,000 seat athletic field.	

ACT 226

150. McKinley High School, Oahu Plans and construction for a 5,000 seat athletic field.	50,000
151. Moanalua Elementary School, Oahu Plans and construction to renovate kindergarten building and teachers' workrooms.	50,000
152. Moanalua High School, Oahu Construction of four science classrooms.	1,000
153. Moanalua High School, Oahu Plans and construction of a swimming pool.	1,000
154. Moanalua Intermediate School, Oahu Plan and construct sprinkling system and ground improvements.	30,000
155. Mokulele Elementary School, Oahu Plans and construction of a sprinkling system and ground improvements.	1,000
156. Nanakuli High and Intermediate School, Oahu Plans for the construction of a gymnasium.	25,000
157. Nanakuli High-Intermediate School, Oahu Construction of gymnasium, ground and site improvements.	200,000
158. Nanakuli II Elementary School, Oahu Plans and construction for a 14-classroom building and ground and site improvements.	38,000
159. Niu Valley Intermediate School, Oahu Plans and construction for installation of stage curtains for cafetorium.	10,000
160. Noelani School, Oahu Plans and construction for clearance of bushy area behind school and installation of chain-link fence.	50,000
161. Noelani School, Oahu Plans and construction for installation of security screens for kitchen and cafetorium.	15,000
162. Nuuanu Elementary School, Oahu Plans and construction for improvements and repair of existing facilities.	31,000
163. Nuuanu Elementary School, Oahu Plans and construction to enclose covered play area, and purchase equipment.	100,000
164. Olomana Youth Center, Oahu Plans and construction for improvements, including relocation and renovations for classroom facilities.	30,000
165. Olomana Youth Center, Oahu Plans and construction for improvements, including relocation and renovations for classroom facilities.	30,000
166. Olomana Youth Center (Windward High School), Oahu Planning and construction; relocation and renovation of classrooms.	90,000
167. Pearl Harbor Elementary School, Oahu Plans and construction for replacement of glass windows with wooden jalousies.	20,000
168. Pearl Harbor Elementary School, Oahu Plans and construction of a sprinkling system and ground improvements.	1,000
169. Pearl Harbor Kai Elementary School, Oahu Plans and construction of a sprinkling system and ground improvements.	1,000

170. Pearl City High School, Oahu Plans and construction of walkways, security gates, metal railings, including ground and site improvements.	35,000
171. Pearl City High School, Oahu Plans and construction of varsity locker rooms.	32,250
172. Puohala Elementary School, Kaneohe, Oahu Plans and construction for improvements to buildings for safety and security reasons.	6,000
173. Radford High School, Oahu Plans and construction of a drainage system for improvement to track field.	75,000
174. Radford High School, Oahu Plans and construction of Building T, including classrooms for Fine Arts, Newswriting Laboratory, Language Laboratories, Agriculture Laboratories and Language Arts; and sprinkler system and ground improvements.	1,000
175. Red Hill Elementary School, Oahu Plan and construct backstop for playfield.	3,000
176. Red Hill Elementary School, Oahu Plan and construct covered, paved playcourt and replace basketball standards.	40,000
177. Royal School, Oahu Plans and construction for renovation of existing administration facilities, other school facilities, and grounds.	153,000
178. Salt Lake Elementary School, Oahu Plans and construction of a sprinkling system and ground improvements.	1,000
179. Salt Lake Elementary School, Oahu Plans and construction of classrooms, including operable walls.	25,000
180. Schools in the Seventeenth Representative District, Oahu Plans, construction and improvement of schools in the Seventeenth Representative District. Unexpended balances in Items IE-004, IE-006, IE-007, IE-036, IE-074, IE-076, IE-083, IE-104 of Act 176, SLH 1972 may be used for this appropriation.	1,000
181. Senior Citizens Center, Oahu Plans and construction for a Senior Citizens Center in Waipahu.	150,000
182. Stevenson Intermediate School, Oahu Plans and construction for administration and/or other facilities. Notwithstanding Section 13, Act 176, SLH 1972, the unencumbered balance of Item I-E-86, Act 176, SLH 1972 will be used to supplement this appropriation.	1,000
183. Stevenson Intermediate School, Oahu Plans and construction for administration and/or other facilities. The unencumbered balance of Items IV-E-80, and IV-E-81, Act 218, SLH 1974, will be used to supplement this appropriation.	1,000
184. Stevenson Intermediate School, Oahu Plans and construction for renovations to existing library.	53,000
185. Stevenson Intermediate School, Oahu Plans and construction for installation of flood lights on the grounds of Stevenson Intermediate and Lincoln Elementary School, to supplement Item I-E-84, Act 176, SLH 1972.	25,000

ACT 226

186. Stevenson Intermediate School, Oahu Plans and construction for Instructional Materials Center to be shared by Stevenson and Lincoln Schools and administration and other school facilities, to supplement Item IV-E-81, Act 218, SLH 1974.	1,000
187. Stevenson Intermediate School, Oahu Plans and construction and renovation of existing music building to include construction of a music practice room.	150,000
188. Wahiawa Elementary School, Wahiawa, Oahu Plans and construction for renovation of cafeteria, including a new stage and replacement of doors; and construction of a chain-link fence.	60,000
189. Wahiawa Intermediate School, Wahiawa, Oahu Plan and construct sprinkling system and ground improvements.	120,000
190. Waiahole Elementary School, Oahu Plans and construction for administration building and library, including demolition and conversion of existing facilities.	20,000
191. Waialua Elementary School, Waialua, Oahu Plan and construct sprinkling system and ground improvement.	27,000
192. Waialua High School, Waialua, Oahu Plans and construction for an Industrial Arts/ Home Economic building.	55,000
193. Waialua High School, Waialua, Oahu Plan and construct sprinkling system and ground improvements.	90,000
194. Waianae High School, Oahu Plans and construction for renovation to the existing classrooms for the ROTC program or the library into an administrative building.	50,000
195. Waianae High School, Oahu Plans and construction for chain-link fencing, ground and related site improvements.	20,000
196. Waianae Intermediate School, Oahu Plans and construction for chain-link fencing, ground and related site improvements.	20,000
197. Waialua High School, Waialua, Oahu Plans and construction for replacement and relocation of football field lights and poles.	200,000
198. Waialua High School, Waialua, Oahu Plan and construct fencing around football field.	5,000
199. Waialua High School, Waialua, Oahu Plan and construct fence around existing and future agriculture field.	16,000
200. Waimanalo Elementary and Intermediate School, Oahu Plans and construction for a covered walkway.	38,000
201. Waimanalo Elementary and Intermediate School, Oahu Plans and construction for a sprinkler system.	58,000
202. Waipahu Elementary School, Oahu Plans and construction of concrete walkway from ground level of main campus to second floor of "I" Building.	35,000
203. Waipahu Elementary School, Oahu Plans and construction of ground improvements to Kahale Field (includes retaining wall, top soil fill and grading).	43,750
204. Waipahu Elementary School, Oahu Construction to repave basketball court.	11,000

205. Waipahu High School, Oahu Plans and construction of athletic field drainage and sprinkler system.	48,000
206. Waipahu High School, Oahu Plans and construction to improve triangle area fronting school.	20,000
207. Waipahu High School, Oahu Plans, engineering and construction to eliminate excessive noise level and dust problems to Quad "I" classrooms due to proximity to Farrington Highway.	20,000
208. Waipahu High School, Oahu Plans and construction of lights on parking lot (Security).	125,000
209. Waipahu Intermediate School, Oahu Plans and construction to replace wiring in dining room.	13,000
210. Washington Intermediate School, Oahu Planning and construction for improvement, renovation and repair of existing facilities.	250,000
211. Webbing Elementary School, Oahu Plan and construct sprinkling system and ground improvements.	13,000

G. DEPARTMENT OF HAWAIIAN HOME LANDS

(To be expended by the Department of Hawaiian Home Lands)

1. 21st District Projects, Oahu Plans and construction for improvements to drainage facilities and related improvements. (To supplement prior appropriations). Unexpended balances from Item F-6, Act 218, SLH 1974 may be used for this appropriation.	1,000
2. Ka Ehu Kai Mini Park and Preschool Design, plans and construction of a mini park and preschool to include a cesspool, chain link fence surrounding the total area, and flood lights. \$10,000 of the unencumbered balances totalling \$100,000 in Item IV-A-1 of Act 218, SLH 1974, may be used for this project.	1,000

H. DEPARTMENT OF HEALTH

1. Health Facility, Waianae, Oahu Plans and construction. Unexpended balances in Item I-G-3, Act 176, SLH 1972 may be used for this appropriation.	1,000
2. Palama Settlement, Oahu Plans and construction for development and improvement of Palama Settlement. Unexpended balance in Items IG-002, IG-001, II-004, IK-038, IK-079 of Act 176, SLH 1972 shall be used for this appropriation. Grant-in-Aid.	145,000
3. Special Education Center on Oahu Plans and construction for a center for the retarded to be situated at the Fort Ruger Complex. Grant-in-Aid.	100,000
4. Children's Hospital, Oahu Grant-in-Aid to the Children's Hospital for plans and construction for renovations and improvements to existing facilities.	100,000

I. DEPARTMENT OF SOCIAL SERVICES AND HOUSING

(To be expended by the Hawaii Housing Authority)

1. Kaahumanu Housing, Oahu Plans, construction and improvements, including the fencing of the project area, cement-tiling in park area, tiling in bathroom, and fencing of individual yards.	100,000
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ACT 226

2. Kamehameha Housing, Oahu	100,000
Plans, construction and improvements, including sidewalk improvements, more parking in medial strip, front porch light, and fencing of yards.	
3. Mayor Wright Housing, Oahu	226,000
Plans, construction and improvements, including the improvement of kitchen, bathroom facilities, project area lighting, and trash collection, replacement of equipment, development of play area, raising of railings to code requirement, and painting of buildings.	
4. Palolo Housing, Oahu	213,600
Plans and construction for renovation of kitchen and bathroom facilities. Supplemental appropriation.	
5. Hawaii Youth Correctional Facility, Oahu	1,000
Plans and construction for playing fields and sports events. Unencumbered balances in Item IV-J-56 of Act 218, SLH 1974 may be used for this appropriation.	

L. DEPARTMENT OF BUDGET AND FINANCE

(To be expended by the Department of Budget and Finance)

1. Aloha Stadium, Oahu	12,000
Plan and construct a six-foot chain link fence between Aloha Stadium and Ohenana Loop (Halawa Valley Estates).	
2. Hawaii Loa College, Kaneohe, Oahu	30,000
To provide grant-in-aid to Hawaii Loa College for construction of additional facilities for the third level of the College's Academic Center Building.	
3. Hawaii Loa College, Kaneohe, Oahu	30,000
To provide grant-in-aid to Hawaii Loa College for construction of additional facilities for the third level of the College's Academic Center Building.	
4. Hawaii Loa College, Kaneohe, Oahu	25,000
To provide grant-in-aid to Hawaii Loa College for construction of additional facilities for the third level of the College's Academic Center Building.	
5. Queens Beach, Oahu	1,000,000
Acquisition of Queen's Beach for park use, provided that the funds shall only be used for this purpose and if the funds are not released for such purposes, they shall not be authorized to be expended and shall not apply against the state debt limit in order to prevent an increase in the bonded indebtedness of the State. Up to \$300,000 of the funds may be used for the purchase of the remaining house lot owned by Mr. Inaba on the Paiko Peninsula, for the purpose of a bird sanctuary and/or a park.	
6. Railroad Restoration, Oahu	15,000
Planning and engineering for a railroad track restoration from Honolulu to Maili Point.	

M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

1. Honolulu Community Theater, Oahu	100,000
Plans and construction for improvements to existing facilities, including major renovations of buildings and fixtures, installation of orchestra pit, installation of lighting for garden lanai, repaving parking lot. Grant-in-Aid.	

2. Waianae Coast Comprehensive Health Center, Oahu	60,000
Plans and construction for improvements, including increasing the present parking spaces from 30 to 80, a new gutter and install curbing, and paving of the road on the mauka side of the site.	
3. Windward Art Center, Oahu	60,000
Site selection, design, and planning of a center for performing and visual arts.	
4. Wahiawa National Guard Armory	8,500
Plans and construction for basketball backboards. Supplements prior appropriations.	

N. CITY AND COUNTY OF HONOLULU

(To be expended by the City and County of Honolulu)

Department of Parks and Recreation

1. Condemnation of the equity of the licensee Waikiki Yacht Club in license No. 66	75,000
Land acquisition to condemn the equity in lots 1 and 2 of license No. 66 of that portion of land and adjacent water which was licensed to the Waikiki Yacht Club.	
2. Alewa Heights Park, Oahu	200,000
Supplemental appropriation for land acquisition and plans for a limited use park, approximately 3.03 acres on the 1800 block of Alewa Drive (Na Pueo Tract) Tax Key No. 1-8-29: 47.	
3. Auwaiolimu Park, Oahu	100,000
Plans and construction for tennis courts and lighting.	
4. Booth Park, Oahu	150,000
Plans and construction for equipment room and conference room facilities for senior citizens.	
5. Crane Playground, Oahu	125,000
Plans and construction for improvements, including resurfacing two basketball and three volleyball courts, upgrading basketball/volleyball court lights and softball field lights.	
6. District Park in Waiau, Oahu	1,000
Land acquisition, planning, and construction of a district park adjacent to Newtown Recreation Center in Waiau, Oahu. (Unexpended balances of \$130,000, or so much thereof in Item 72-G-109 of Act 218, SLH 1974, shall be used for this appropriation.)	
7. Dole Park, Oahu	100,000
Plans and construction of tennis court.	
8. Ewa Beach Community Park, Oahu	100,000
Plans and construction for an enclosed extension of the present recreation building.	
9. Hauula Beach Park Extension, Oahu	100,000
Land acquisition to expand the existing beach park.	
10. Honokai Hale Community Park, Oahu	4,500
Plans and construction for development, including purchase of lease, land exchange or land acquisition as necessary. (Unexpended balances in Item IV N-10-4 of Act 195, SLH 1975 shall be used for this project.)	
11. Honolulu Zoo, Oahu	215,000
Plans and construction for Zoo Hospital for research, medical uses, and quarantine purposes.	

ACT 226

12. Honolulu Zoo, Oahu Plans and construction for primate exhibit facility.	525,000
13. Kalaepohaku Park, Oahu Plans and construction for improvements, including the construction of tennis courts. Funds to be matched by the City and County of Honolulu.	35,000
14. Kalama Valley Park, Oahu Planning, designing, development and construction of park, recreational and other public facilities and improvements for a park.	230,000
15. Kamiloiki Valley, City Park, Hawaii Kai, Oahu Landscaping and grading of Upper Kamiloiki Valley, City Park, Hawaii Kai, and other necessary costs.	200,000
16. Kaneohe Community Service Center, Kaneohe, Oahu Plans and construction for a center for Senior Citizens and all age groups, including equipment and landscaping.	25,000
17. Kanewai Field, Oahu Plans and construction for improvements and renovation of restrooms and recreational facilities.	50,000
18. Kapiolani Regional Park, Oahu Land acquisition for incremental development within General Planned park area between Paki and Leahi Avenues.	100,000
19. Kapaolono Field, Oahu Plans and construction for improvements, including resurfacing basketball/volleyball courts and installation of rubberized material under play equipment.	25,000
20. Keolu Playground, Oahu Plans and construction for reconstruction of basketball courts and sub-drainage and resurfacing of volleyball courts.	25,000
21. Kalihi Valley Field, Oahu Planning, engineering and construction to complete swimming pool complex, including deep diving/water polo pool.	50,000
22. Koko Head District Park, Oahu Plans, construction and equipment for a tot playground at Koko Head District Park.	10,000
23. Koko Head Park and Playground, Oahu Plans and construction of a recreation deck elastomer system for playground equipment.	13,000
24. Lanakila Park, Oahu Plans and construction for a swimming pool pavilion.	15,000
25. Lanakila Playground, Oahu Plans and construction to complete construction of gymnasium. Supplements prior appropriations.	75,000
26. Maili Playground, Oahu Plans and construction for resurfacing of all the existing courts.	10,000
27. Makaha Valley Playground, Oahu Plans and construction for resurfacing of all the existing courts.	10,000
28. Makakilo Community Park, Oahu Plans and construction to upgrade park facilities and related improvements.	25,000
29. Makiki District Park, Oahu Land acquisition of remaining two residential parcels adjacent to freeway.	90,000

30. Makiki, Oahu	100,000
Land acquisition for minipark sites in the Makiki area.	
31. Manoa Recreation Center, Oahu	10,000
Construction of jogging path around field.	
32. Manoa Recreation Center, Oahu	10,000
Construction of facilities and water system for gardening purposes.	
33. Manoa Recreation Center, Oahu	80,000
Plans and construction for four additional tennis courts with lights (funds to be matched by City and County of Honolulu.)	
34. Manoa Recreation Center, Oahu	35,000
Plans and construction for installation of new flooring and public address system for gymnasium.	
35. Manoa Recreation Center, Oahu	10,000
Plans and construction for installation of special safety surface for playground equipment area.	
36. Maunalani Playground, Oahu	100,000
Plans and construction for renovations and improvements of facilities and the picnic area.	
37. Maunawili Road, Oahu	1,000
Improvements, including street widening of Maunawili Road between Lunahelu Street and Aloha Oe Drive (unexpended balances in Part VI, Section 91, Item IV-N-3-5 of Act 195, SLH 1975 will be used for this appropriation.)	
38. Mililani Town, Oahu	100,000
Plans and construction of flood lights for two tennis courts and a basketball court on playground on Kaloapau Street.	
39. Mililani Kuahelani Park, Oahu	50,000
Plans and construction for softball back stop, sprinkler system and play apparatus.	
40. Nuuanu Valley Park, Oahu	25,000
Plans and construction for improvements, including tennis courts, lighting, jogging path, and additional parking. The unencumbered balance of Item IV-J-19, Act 218, SLH 1974, will be used to supplement this appropriation.	
41. Paki Park, Oahu	25,000
Plans and construction for renovations to building and pavilion, construction of storage area, providing parking stalls and purchase of kiln for ceramics. (Unexpended balances of Item IV-N-22-11 Act 195, SLH 1975 may be used to supplement this appropriation).	
42. Parks, 16th District, Oahu	100,000
Grant-in-Aid to the City and County of Honolulu for plans, designs and construction of general improvements to all parks in the 16th District.	
43. Park at 16th Avenue, Oahu	20,000
Supplements prior 1974 appropriation. For the construction of a park on the area of land bordered by 16th Avenue at Noeau Street, the Board of Water Supply tract immediately mauka, Iwi Way, and Paula Drive, and on the south by 16th Avenue and Noeau Street, including planting, such as bougainvillea around the park area to act as a firebreak between the park and nearby homes.	
44. Palolo Playground, Oahu	200,000
Supplement prior appropriation. Plans and construction to improve gymnasium and complete development of neighborhood youth facilities.	

ACT 226

45. Papakoloa Park, Oahu Supplemental appropriation for plans and construction for improvements to existing drainage system.	15,000
46. Pearl Ridge Park, Oahu Planning and construction of a recreational complex in Pearl Ridge, Oahu. (To be matched by the City and County of Honolulu.)	150,000
47. Puunui Park, Oahu Plans and construction for a mini pool.	50,000
48. Pililaau Community Park, Oahu Resurfacing of all the parking area.	10,000
49. Queen's Beach, Oahu Plans and construction for land acquisition of Queen's Beach for park use.	40,000
50. Sunset Beach Neighborhood Park, Haleiwa, Oahu Plans and construction of tennis courts.	30,000
51. 21st District Parks and Recreation Facilities, Oahu Plans and construction for improvements to site and existing facilities and for new facilities, including necessary land acquisition. Unexpended balances in Item I-K-40 of Act 176, SLH 1972 may be used for this appropriation.	1,000
52. Urban Recreational Facilities, 14th District, Oahu Land acquisition, plans and construction, including equipment, for the development of urban recreational facilities in the 14th Representative District, to include the development of mini-parks and community-developed parks.	750,000
53. Waiau Park, Oahu Planning, designing, and construction of a regional park in Waiau. (Unencumbered balances of \$508,000, or so much thereof in Items 72-G-061 and 72-G-062 of Act 218, SLH 1974, shall be used for this appropriation.)	251,000
54. Waiau Neighborhood Park, Oahu Land acquisition, planning, and construction of a neighborhood park adjacent to the Waiau Elementary School in Waiau.	150,000
55. Waikiki Community Center Study, Oahu Evaluation study to determine the location, facilities, and cost of a Waikiki Community Center, with matching funds from the City and County of Honolulu.	10,000
56. Waianae Civic Center, Oahu Planning, engineering, and site selection for a community civic center.	15,000
57. Waipahu Civic Center, Oahu Plans and construction for Civic Center in Waipahu.	300,000
58. Waipahu Recreation Center, Oahu Plans and construction for two concrete tennis courts, fencing and site improvements.	80,000
59. Waipahu Recreation Center, Oahu Plans and construction for Waipahu Beautification Program.	100,000

Department of Public Works

60. Area bound by Kalua Street to Keanu Street, between Palolo Avenue and Ninth Avenue, Oahu Plans and construction for the replacement of existing sewer mains, and the installation of new, larger sewer mains to remedy the problems of sewage backing up and causing suffering and property damage to resi-	300,000
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61. Bikeway on Kaimakani Street, Oahu Plan and construct a bikeway on Kaimakani Street from Ulune Street to Poko Road.	40,000
62. Flood Control Drain, Moanalua Gardens, Oahu Plan and construct flood control drain for Moanalua Gardens Unit 7 Subdivision (to be matched by the City and County of Honolulu; to supplement Item IV N-16.8 of Act 195, SLH 1975).	480,000
63. Huelani Drive Relief Drain, Oahu Supplemental appropriation for land acquisition, plans and construction of extension to existing pipe drain.	25,000
64. Kalihi Valley, Oahu Planning and construction of general improvements to the Kalihi Valley area. The unencumbered balance in Item N12-03 of Act 195, SLH 1975 for Kalihi Valley, Oahu—plans and construction of general improvements to the Kalihi Valley area (100,000) will be used to supplement this budget.	400,000
65. Makiki Stream, Unit I, Oahu Plans, land acquisition and construction of channel improvements of Makiki Stream.	1,000
66. Mailiili Road Drainage System, Oahu Planning, engineering, and construction for a drainage system, Tax Map Key 8-6-13.	5,000
67. Manoa, Oahu Plans and construction for general improvements in Lower Manoa.	40,000
68. Palolo Stream, Oahu Plans and construction of retaining wall to prevent erosion along Palolo Stream from Keanu Street to St. Louis Drive connecting the existing lined channel on both ends with the City and County of Honolulu participating in project financing.	200,000
69. Private Sewage Treatment Plants at Ewa Beach Townhouses, Oahu Repairs to correct the problem of overloading and the malfunctioning of the private sewage treatment plants.	150,000
70. Punchbowl Area General Improvements, Oahu Plans for general improvements to 1st and 3rd Precincts, 14th Representative District.	40,000
71. Pupukea Road Relief Drain, Pupukea, Oahu Plans and construction of storm drainage system along Pupukea Road.	150,000
72. 21st District Road and Drainage Projects, Oahu Plans and construction for improvements, including Puuhawai and Kuwale drainage projects. (Unexpended balances in Item I-C-12 of Act 176, SLH 1972 shall be used for this appropriation.)	70,000
73. Waikiki Improvements, Oahu Plans and construction to enlarge sewage pumping station on Beachwalk Street.	142,000
74. Wilder Avenue and Kewalo Street, Oahu Plans and construction of pipe drain system extending from an existing drainage system at Lunalilo Street to the intersection of Wilder Avenue and Kewalo Street, including utilities adjustment.	160,000

ACT 226

75. Young Street Improvements, Oahu	100,000
Planning, engineering and construction for drainage improvements on Young Street, Tax Map: 2-8-03 and 2-8-04. (To be matched by City and County of Honolulu.)	
76. Bus Shelters, Oahu	20,000
Planning, site preparation and construction of four type D bus shelters in Pearl City: Honolulu bound bus stop, makai side of Kamehameha Highway in front of BJ Furniture Customer Service Building. Pacific Palisades bound bus stop, makai side of Aumakua Street in front of Pacific Palisades Community Center. Waimano Home Road across Pearl City Police Station and adjacent to Foodland-Food City parking lot. Mauka side of Kamehameha Highway in front of Pearl City Chrysler-Plymouth Inc., Pearl City.	
77. Ewa bound bus stop, Oahu	10,000
Planning, site preparation and construction of a type C bus shelter in Pearl Ridge on the mauka side of Kamehameha Highway in front of Anna Miller's Coffee Shop parking lot.	
78. Hamakua Road, Oahu	100,000
Planning, land acquisition and construction for completion of Hamakua Road.	
79. Highway Improvements, Bus Shelters, Oahu	30,000
Supplemental appropriation for planning, site preparation, and construction of bus shelters at the following existing bus stops: Kam Hwy. at Heeia St., Kam Hwy. at Paleka Rd., Kam Hwy. at Luluku Rd., Kam Hwy. across from Hawaii Loa College, Aumoku St. in vicinity of McDonald's Kaneohe, Kaneohe Bay Drive at Mokulele Dr., Kahekili Hwy. in vicinity of Ahuimanu Rd., Keolu Dr. at Hele St., Kailua Rd. in vicinity of Kokokahi YWCA, Hui Iwa St. vicinity of Kahekili Hwy., Ahuimanu Place vicinity of Kahekili Hwy., Kam Hwy. vicinity of Hygienic Store, and Kahekili Hwy. in vicinity of Kahuhipa St. (To supplement funds appropriated under Act 195/75, Part VI, Item IV-N-3-3.)	
80. Kalanianaole Highway, Oahu	1,000
Plans and construction of a sidewalk adjacent to Kalanianaole Highway on that curved section adjacent to the Olomana subdivision between Uluhala Street and the Waimanalo Junction. (Unexpended balances in Part VI, Section 91, Item IV-C-3-5 of Act 195, SLH 1975 will be used for this appropriation.)	
81. Kamehameha Highway and Lumiaina Street traffic lights, Oahu	41,500
Plans and construction for traffic lights at the intersection of Kamehameha Highway and Lumiaina Street. Supplements prior appropriation.	
82. Kaukonahua Road Lights, Waialua, Oahu	41,500
Plans and installation of mercury vapor lights on Kaukonahua Road from Thompson Corner to Weed Junction.	
83. Koa Kahiko Street, Kaneohe, Oahu	25,000
Plans and construction for A/C sidewalk from the intersection of Aumoku and Koa Kahiko Streets to Akimala Street then mauka on Akimala to the Kaneohe Elementary School.	
84. Nuuanu Avenue Traffic Lights, Oahu	20,000
Plans and construction for installation of traffic lights at the intersection of Wyllie Street and Nuuanu Avenue.	
85. Overpass to Makalapa Elementary School, Oahu	100,000
Plan and construct an overpass on corner of Salt Lake Boulevard and Ala Oli to Makalapa Elementary School.	

86. Pali Highway Traffic Lights, Oahu	20.000
Plans and construction for installation of traffic lights at the intersection of Waokanaka Street and Pali Highway.	
87. Roads, 10th District, Oahu	400,000
Grant-in-Aid. Plans and construction for resurfacing of the following streets located in the 10th Representative District: 6th Avenue from the 600 block to the 1199 block, all of 12th Avenue, 18th Avenue from the 700 block to the 1099 block, Harding Avenue from the 3000 block to the 4029 block, Maunaloa Avenue from the 3254 block to the 4027 block, all of Mooheau Avenue, Winam Avenue from the 2700 block to the 3481 block.	
88. Roads, 16th District, Oahu	276,500
Grant-in-Aid to the City and County of Honolulu for plans and construction for resurfacing of roads in the 16th District.	
89. Round Top Drive, Oahu	20,000
Plans and construction for installation of street lights along the upper portion of Round Top Drive, First Increment.	
90. Salt Lake Boulevard, Oahu	250,000
Land acquisition, plans, and construction for the realignment, widening, and improvements of Salt Lake Boulevard between Halawa Heights and Puuloa Road.	
91. Streets in the 9th Representative District, Oahu	50,000
Plans and construction for improvement of roads in the 9th Representative District, including, but not limited to, Alencastre Street, Maigret Street, and the lower section of Bertram Street. Funds to be matched by the City and County of Honolulu.	
92. Ulumanu Drive, Kailua, Oahu	25,000
Plans and construction for A/C sidewalk from Kailua Road to Kailua High School.	
93. University Avenue, Oahu	20,000
Plans and construction for resurfacing of University Avenue between Maile Way and East Manoa Road.	
94. Varsity Place Traffic Improvements, Oahu	150,000
Planning, engineering, construction and installation of traffic signals at Varsity Place and University Avenue and designation of right turn only lane on Varsity Place.	
95. Waikiki Improvements, Oahu	300,000
Plans and construction for changing light standards from wood to aluminum from Kalakaua-Kuhio intersection to Ala Wai Boulevard; along Ala Moana Boulevard to Hobron Lane district.	
(To be expended by the Board of Water Supply)	
96. Alani and Paty Drives, Oahu	385,000
Plans and construction of eight-inch mains and appurtenances on Alani and Paty Drives.	
97. Halekou Road 8-inch Main, Kaneohe, Oahu	68,000
Land acquisition, plans and construction of installation of 8-inch main and appurtenances along Halekou Road between Kam Hwy. and Kanaka Street.	
98. Jade Street Waterline Improvement, Oahu	40,000
Planning, engineering, and construction for an 8" waterline.	

ACT 226

99. Kaamooloa Drive 8" main (Kaukonahua Road to Lupenui Place), Waialua, Oahu	123,000
Plans and construction to replace the existing 3-inch main with 1,600 feet of 8-inch main and appurtenances, including hydrants, laterals, valves, valve boxes, etc.	
100. Kaimuki District Water System Improvement, Oahu	90,000
Plans and construction for installation of water mains to provide adequate fire protection and to remedy poor valve pressure on Charles Street between 4th and 6th Avenues.	
101. Kalei Road, Oahu	57,000
Plans and construction for replacement of existing two-inch main with eight-inch main and appurtenances.	
102. Keanu Street Water Main, Oahu	27,000
Plans and construction of eight-inch main and appurtenances along Keanu Street eastward from Ekaha Street. (Unexpended balances of Part VI, Section 91, Item 0-24-1, Act 195, SLH 1975 may be used to supplement this appropriation).	
103. Pilikino Street, Oahu	73,000
Plans and construction for relocation of eight-inch and six-inch mains and appurtenances.	
104. Seaview Avenue, Oahu	11,800
Plans and construction to complete installation of eight-inch main and appurtenances along Seaview Avenue between Marques and Hunnewell Streets.	
105. Terrace Drive, Oahu	19,200
Plans and construction to complete installation of eight-inch main and appurtenances along entire length of the drive.	
106. Water Main along Hoku Avenue, Kaimuki, Oahu	64,000
Plans and construction for installation of 600 feet of eight-inch water main and appurtenances along Hoku Avenue, east of Ekaha Street, Kaimuki, Oahu.	
107. Water System Improvements, Oahu	30,500
Planning and engineering for replacement of 3,200 feet of 8-inch mains on Lurline Drive and 1,300 feet of 8-inch main on Matsonia Drive.	
108. Water System Improvements, Oahu	5,000
Planning and engineering for installation of 8-inch main and appurtenances along Iwi Way from Sierra Drive.	
109. Water System Improvements, Oahu	38,500
Planning, engineering and land acquisition funds for replacing the existing old mains with 5,100 feet of 8-inch main and appurtenances along Pu-kele, Pakui, Hinahina, Hardesty and Kaau Streets.	
110. Water System Improvements, Oahu	6,900
Planning and engineering for replacement of existing 2-inch main with 1,000 feet of 8-inch main and appurtenances along Koali Road mauka of Waialae Avenue.	
111. Water System Improvements, Oahu	5,500
Planning and engineering for installation of 800 feet of 8-inch main and appurtenances along Felix Street.	
112. Water System for Waikiki, Oahu	94,000
Plans and construction for a 16-inch water main along Ala Wai.	

113. Water System for Waikiki, Oahu Plans and construction for an 8-inch water main along Kiele Avenue.	72,000
114. Waikalua Road 8-inch Main, Kaneohe, Oahu Plans and construction for installation of 8-inch main and appurtenances along Waikalua Road between Waikapoki Road and Mahalani Street.	58,000
115. Waikalualoko Loop Road 8-inch Main, Kaneohe, Oahu Land acquisition, plans and construction for replacement of existing 3-inch main with 8-inch main and appurtenances along Waikalualoko Loop Road from Waikalua Road to the end.	58,000

V. COUNTY OF KAUAI**B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by Department of Land and Natural Resources)

1. Russian Fort Historic Project, Waimea, Kauai Plans and construction for incremental restoration, interpretation and other improvements. Construction and interpretive features including public access and use of facilities. (To supplement prior appropriation.)	145,000
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F. DEPARTMENT OF EDUCATION

1. Eleele School, Eleele, Kauai Supplement prior appropriation for construction of Administration-Library Building.	200,000
2. Kapaa Elementary School, Kapaa, Kauai Supplement prior appropriation for construction of 8 classroom building.	150,000
3. Kapaa High School, Kapaa, Kauai Supplement prior appropriation for plans and construction of swimming pool.	200,000
4. Kauai High and Intermediate School, Lihue, Kauai Supplement construction funds for renovation of former Kauai Community College to classrooms and other facility improvements to implement ultimate site report.	340,000
5. Kauai High and Intermediate School, Lihue, Kauai Plans for three special education classrooms for the emotionally handicapped, hearing handicapped and trainable students.	35,000
6. Waimea High School, Waimea, Kauai Plans for shops and classrooms for industrial arts and practical arts.	70,000

K. DEPARTMENT OF REGULATORY AGENCIES

1. Educational T.V. Facilities, Kauai Design and construction for purchase and erection of educational television antenna and tower; supplemental funds.	100,000
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N. COUNTY OF KAUAI

(To be expended by County of Kauai)

1. Prince Kuhio Park, Koloa, Kauai Plans for restoration of park. Grants-in-Aid.	50,000
2. Kekaha Park, Kekaha, Kauai Plans for improvements to H.P. Faye Park.	50,000
3. Solid Waste Management Program for County of Kauai Plans and construction of sanitary fills and transfer stations.	262,000

ACT 226

4. Kamalu Road Bridge #1, Wailua Homesteads, Kauai Plans for bridge repair.	5,000
5. Kapahi Bridge, Kapahi, Kauai Plans and construction for replacement of existing bridge.	30,000
6. Civil Defense Communication, Kauai Design and construct microwave links between repeater sites and upgrading equipment.	63,000
7. Kauai War Memorial Convention Hall, Lihue, Kauai Plans and construction for extension.	100,000

O. COUNTY OF KAUAI

(To be expended by Board of Water Supply)

1. Water System, Lihue, Kauai Plans and construction for Water Source development.	170,000
2. Koloa-Poipu Water System, Koloa, Kauai Plans and construction for Deepwell Source development.	280,000

SECTION 91F. The following sums or so much thereof as shall be sufficient to finance the projects herein contained are hereby appropriated or authorized as the case may be, for the fiscal year beginning July 1, 1976 and ending June 30, 1977, to be expended by the department of accounting and general services, unless otherwise specified in the subsection, out of moneys in the treasury received from general obligation bonds funds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein, provided that the sum total of the general obligation bonds so issued shall not exceed \$25,000,000.

I. COUNTY OF HAWAII

A. DEPARTMENT OF AGRICULTURE

1. Big Animal Quarantine Station, Hilo Plans and construction for renovation of facilities at Big Animal Quarantine Station.	100,000
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B. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by Department of Land and Natural Resources)

1. Honuapo Wharf, Ka'u, Hawaii Plans and construction for repair and upgrading of pier and surrounding area. Contingent upon transfer of land from Department of Transportation.	100,000
2. Kehena Ditch, Hawaii Land acquisition, plans and construction of source development, pumps, pipelines and storage facilities.	250,000
3. Motorcycle Training Facility, Pohakuloa, Hawaii Plans and construction for motorcycle training facility and related improvements.	50,000
4. Wailoa River Basin, Parking Facilities, Hawaii Plans and construction for parking facilities and related improvements.	75,000
5. Wailoa River State Park, Hawaii Plans and construction for improvements, including a mooring facility for small boats.	75,000

6. Kona Airport State Park, Hawaii Plans and construction for development of a State Park at the Old Kona Airport. Supplement to prior appropriation.	100,000
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C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

1. Hilo Harbor, Dry Docking Facility, Hawaii Plans and construction for development.	80,000
2. For traffic control lights, Hawaii Plans and construction for installation of Traffic Control Lights at Keau Elementary School and other areas on the Island of Hawaii, to be expended by the Department of Transportation.	5,000

D. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

1. Hydro-Electric System for West Hawaii, Hawaii Feasibility studies, including wind and water resources.	49,000
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E. UNIVERSITY OF HAWAII

1. University of Hawaii, Hilo College, Hawaii Plans and construction for improvements, including air conditioning and fumigation for books.	100,000
2. University of Hawaii, Hilo, Hawaii Plans and construction for repairs and renovations of dormitories, Hilo Campus.	70,000
3. Hawaii Agricultural Experiment Station, Hilo Office and laboratory building, Hilo, Hawaii. Construction, purchase of furniture and equipment and landscaping of new facilities and appurtenances. \$630,000 in funds from Act 218, SLH 1974, Part IV, section 72, Item G118, will be used to supplement this appropriation.	51,000
4. Marine Research and Display Project, Hawaii Feasibility study.	30,000

F. DEPARTMENT OF EDUCATION

1. Hilo Library, Hawaiian Room, Hawaii Plans and construction for renovation of air conditioning.	10,000
2. Hilo Library Auditorium, Hawaii Plans and construction.	500,000
3. Kailua Library, Kona, Hawaii Plans.	50,000

H. DEPARTMENT OF HEALTH

(To be expended by the Department of Health)

1. Lucy Henriques Medical Clinic, Kamuela Plans and construction and equipment for facilities. Grant-in-aid. \$25,000 of balances in Item I K 61, Act 176, SLH 1972, shall be used for this project.	125,000
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J. DEPARTMENT OF DEFENSE

1. Volcano Project, Hawaii Implementation of emergency procedures, including plans for clearing of access roads and testing of explosives to divert lava flow.	50,000
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ACT 226

M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

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| 1. Ethnic Cultural Building, Hawaii
Plans and construction to supplement prior appropriations. | 50,000 |
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N. COUNTY OF HAWAII

(To be expended by the County of Hawaii)

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| 1. Downtown Hilo Project, Hawaii
Plans and construction for implementation of downtown Hilo plan. | 185,000 |
| 2. Hilo Bayfront Area Jogging Track, Hawaii
Plans and construction. | 2,500 |
| 3. Hilo Storm Drainage, Hawaii
Land acquisition, planning and construction of storm drainage improvements. To supplement prior appropriations. | 75,000 |
| 4. Kaieie Road, Papaikou, Hawaii
Plans and construction for improvement and upgrading of road from Belt Highway toward the vicinity of Mauna Kea Memorial Park. | 100,000 |
| 5. Kalapana Escape Road, Hawaii
Land acquisition, planning and construction of road to replace portion of existing coastal road. | 50,000 |
| 6. Kaumana Drive, Hawaii
Land acquisition, planning and improvements to existing road. To supplement prior appropriations. | 75,000 |
| 7. Kawili Street Channelization, Hawaii
Planning and construction of Kawili Street improvements in conjunction with Waiakea High School. | 10,000 |
| 8. Kona Flood Control, Hawaii
Land acquisition, planning and construction of flood control measures. To supplement prior appropriation. | 75,000 |
| 9. Saddle Road Improvement, Hawaii
Land acquisition, planning and improvement to existing road. To supplement prior appropriation. | 50,000 |
| 10. Upper Belt Highway Improvement, Hawaii
Land acquisition, planning and improvement to Mamalahoa Highway from Holualoa to Honalo. To supplement prior appropriation. | 50,000 |

O. COUNTY OF HAWAII

(To be expended by the Hawaii Water Commission)

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| 1. Pepeekeo Water Development, Hawaii
Incremental development of water system, including plans and construction of source development, pipelines, booster pump stations and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition. | 100,000 |
| 2. North Kohala Water Development, Hawaii
Incremental development of water system, including plans and construction of source development, pipelines, booster pump stations and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition. | 47,500 |
| 3. Hilo Water System, Hawaii
Land acquisition, plans and construction to develop the Hilo water system, trunk line, pumps, storage tank facilities and appurtenances. | 270,000 |

II. COUNTY OF MAUI**B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

1. Makena, La Perouse State Park, Maui Plans and construction, including acquisition of land, to supplement prior appropriations.	50,000
2. Importation of Game Birds to Maui Importation of game birds to the island of Maui, including construction of facilities for propagation purposes. Fund Appropriated in Item II A-1 of Act 218, SLH, 1974 may be used for this Project.	20,000
3. Maui Motorcycle Park, Maui Plans and construction of a motorcycling park. Funds appropriated in Item III B-1 of Act 195, SLH 1975, may be used for this project.	1,000

C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

1. Hana Belt Road, Maui Plans and construction for improvements to bridges.	150,000
2. Kamehameha V Highway, Molokai Plans and construction for improvements toward east end.	100,000
3. Kula Highway, Maui Plans and construction for widening and resurfacing of Kula Highway from Kaipoioi Bridge to Keokea, to supplement prior appropriations.	50,000

E. UNIVERSITY OF HAWAII

1. University of Hawaii, Cooperative Extension Building, Maui Plans and construction at Maui Community College to supplement prior appropriation.	275,000
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F. DEPARTMENT OF EDUCATION

1. Baldwin High School, Maui Plans and construction for improvement to electrical system.	30,000
2. Kahului Library, Maui Plans and construction for air conditioning.	135,000
3. Kula Elementary School, Maui Plans and construction for access road.	12,000
4. Lanai High and Elementary School, Lanai Plans and construction for conversion of library to office.	48,000
5. Maui High School, Gymnatorium, Maui Plans and construction for gymnasium.	250,000
6. Maui High School, Parking, Maui Plans and construction for parking.	55,000
7. Pukalani Elementary School, Maui Plans and construction for improvements.	50,000
8. School and Park Site, Makawao, Maui Acquisition of land for school and park site. Unencumbered funds in Item II-E-1 of Act 197, SLH 1971, may be used for this project.	1,000

ACT 226

H. DEPARTMENT OF HEALTH

1. Hale Makua, Long-Term Care Facility, Maui Plans and construction. Unencumbered fund in Item II-F-5 of Act 197 SLH 1971 may be used for this project.	237,000
2. Molokai Dental Program Facility, Molokai Plans and construction. Balances in Item D-13, Part III, Section 4, Act 68, SLH 1971 will be used for this project.	50,000
3. Molokai General Hospital, Molokai Plans and construction for improvements.	56,000

M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

1. Maui Vacuum Cooling Plant, Maui Plans and construction for improvements.	75,000
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N. COUNTY OF MAUI

(To be expended by County of Maui)

1. Waiehu Storm Drainage Improvements, Maui Plans and construction for improvements.	100,000
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O. COUNTY OF MAUI

(To be expended by Board of Water Supply)

1. Water Treatment Plants, Maui County—Plans and construction.	255,000
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III. CITY AND COUNTY OF HONOLULU

A. DEPARTMENT OF AGRICULTURE

1. Banana Processing Plant, Oahu—Plans for a banana processing plant on Oahu. Balances in Item K-42, Act 176, SLH 1972 will be used for this project.	1,000
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B. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

1. Historical Park, Wahiawa, Oahu Study on the feasibility of developing a historical park at Kukaniloko-Na Pohaku Kanau O Alii.	25,000
2. Malaekahana Beach Park, Oahu Incremental acquisition by direct purchase, exchange or otherwise and planning and construction of TMK 5-6-01: 6, 7, 11 thru 23, 26 thru 44, 48, 50, 52, including future acquisition of adjacent parcels TMK 5-6-01: 24, 25, 46, 47, 49, 51, 53 thru 65. Unencumbered balances in items IV-B-17-2, IV-N-1-3 and IV-B-1-3 of Section 91, Part VI, Act 195, SLH 1975 shall be used for this project. Funds may be matched by Federal funds as available.	1,700,000
3. Malaekahana Park, Oahu Land, plans and construction for development.	300,000
4. Paiko Lagoon Wildlife Refuge and Park, Oahu For the acquisition of all of that portion of tax map key 3-8-01-69, together with existing road right-of-way, which has not hitherto been acquired; for planning and construction of a Fish and Wildlife Sanctuary at Paiko Peninsula, Oahu. Unencumbered balances in Item I-B-5, Section 2, Act 176, SLH 1972, Item IV-A-11, Section 72A, Part IVA, section 7, Act 218, Session Laws of Hawaii 1974, and the unencumbered balances in Item	101,000

B-22-2, Section IV, Part VI, section 91, Act 195, Session Laws of Hawaii 1975, shall be used for this project in conjunction with the new appropriation.

5. The Oceanic Institute, Mullet Hatchery, Oahu Plans and construction.	300,000
6. Salt Lake State Park, Oahu Land acquisition of portions of TMK 1-1-63-1 and 1-1-63-9.	1,000,000
7. Sand Island State Park, Oahu Plans and construction for development of outrigger canoe site in accordance with master plan, including canoe storage and launching area, meeting and educational center for 100 people office area for at least 3 people, conference room for 10 people, toilets and showers.	171,000
8. Sand Island State Park, Oahu Plans and construction for development, including Phase III.	500,000
9. Sacred Falls, Oahu Acquisition, planning and development of approximately 1,305 acres of all lands mauka of existing cane haul road at Kaluanui, Koolauloa, Oahu and identified by tax map key: 5-3-11-1 (portion of 1 only), 5-3-9-2 and 5-3-9-3 for park purposes. To supplement funds in items VI, I, B, 3 and VI, IV, B-1, 4 in Act 195, SLH 1975.	500,000
10. Shelter Enclosure for Liberty Bell Replica, Oahu Plans and construction of an enclosure/shelter for the Liberty Bell replica including foundation and affording full view and security from harm.	10,000

C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

1. Dike Road, Kailua, Oahu Plans, including drainage, compaction and soil bearing study. (Unexpended funds in item VI, IV, N-1, 6, Act 195, SLH 1975 shall be used for this project).	90,000
2. Mokaua Island, Oahu Plans and construction for installation of a 2-1/2 inch waterline from Sand Island to Mokaua Island.	35,000
3. Kailua Road Improvements, Oahu Planning and construction of steel guard rail.	120,000
4. Wyllie Street, Oahu Plans and construction for asphalt paved walkways on the Wyllie Street overpass and egress at Pali Highway.	25,000

D. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

1. Manoa Planning District, Oahu Study.	50,000
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E. UNIVERSITY OF HAWAII

1. University of Hawaii, Agricultural Service Center, Manoa, Oahu Plans and construction for facilities for agricultural service center.	50,000
2. University of Hawaii, Kuykendall Hall, Oahu Plans and construction for soundproofing and air conditioning.	250,000

ACT 226

3. University of Hawaii, Mauka-Makai Mall, Oahu Plans and construction for Mauka-Makai Mall.	500,000
4. University of Hawaii, Security of the U.H. Campus, Oahu Security.	100,000
5. University of Hawaii, Tropical Fruit Processing Project, Manoa, Oahu Plans and construction for development of pilot plant facilities for tropical fruit processing.	100,000
6. West Oahu College, Oahu Planning, engineering, renovation, leasing and/or construction of existing and new facilities.	100,000

F. DEPARTMENT OF EDUCATION

1. Aiea, Oahu Plans and construction for improvements to athletic field lights.	75,000
2. Aiea High School, Oahu Plans and construction for completion of improvements to the library.	129,000
3. Aina Haina Elementary School, Oahu Planning and construction for completion of covered walkways.	10,000
4. Aina Haina Elementary School, Oahu Planning and construction for improvements, including site and painting.	50,000
5. Aina Haina Elementary School, Oahu Planning and construction for air conditioning and carpeting for library. (Balances in Item E-5, Act 197, SLH 1971 may be used for this item project.)	1,000
6. Aina Haina Elementary School, Oahu Planning and construction for renovation of library and AV center.	10,000
7. [Not used.]	
8. Castle High School, Oahu Plans and construction for renovations of football field lights, public address system, and scoreboard. (Unexpended balances in Item 141 of Act 218, SLH 1974, and in Item F3-4 of Act 195, SLH 1975, may be used for this appropriation.)	1,000
9. Castle High School, Oahu Plans and construction to asphalt area adjacent to cafeteria, including site improvements. (Unexpended balances in Item F3-16 of Act 195, SLH 1975, may be used for this appropriation.)	1,000
10. Castle High School, Oahu Plans and construction for renovation of all students' restrooms. (Unexpended balances in Item IV E-143 of Act 218, SLH 1974, may be used for this appropriation.)	1,000
11. Department of Education, Headquarters Annex, Oahu Plans.	10,000
12. Enchanted Lake Elementary School, Oahu Plans and construction for renovation to restroom.	15,000
13. Hahaione Elementary School, Oahu Planning and construction for fence in area around Building C for security and for outdoor educational area.	50,000
14. Hawaii School for Deaf and Blind, Oahu Planning and construction to install, maintain and repair phonic ears.	75,000

15. Heeia Elementary School, Oahu	35,000
Plans and construction for installation of folding doors for classrooms and multi-purpose room.	
16. Jarrett Intermediate School, Oahu	20,000
Planning and construction for renovation of covered walkways.	
17. Jarrett Intermediate School, Oahu	8,000
Planning and construction for renovation and repair of roofs of administration building and Building C. (Balances in Item E-12, Act 197, SLH 1971 may be used for this project.)	
18. Jefferson School, Orthopedic Building, Oahu	5,000
Plans and construction for orthopedic building.	
19. Kaaawa School, Oahu	9,000
Plans and construction for lighting and electrical improvements.	
20. Kahala Elementary School, Oahu	10,000
Planning and construction for installation and extension of counter in administration building.	
21. Kahala Elementary School, Oahu	40,000
Plans to convert old library to art and music building.	
22. Kahala Elementary School, Oahu	10,000
Extend walkway from library.	
23. Kaimuki Intermediate School, Oahu	5,000
Planning and construction for paving of all ball courts. (Supplements prior appropriations.)	
24. Kaimuki Intermediate School, Oahu	10,000
Planning and construction of chain-link fence between school and cemetery.	
25. Kaimuki Intermediate School, Oahu	250,000
Planning and construction for gymnasium. (To supplement prior appropriations.)	
26. Kaimuki Intermediate School, Oahu	4,000
Planning and construction for paving of the service road.	
27. Kaimuki Intermediate School, Oahu	15,000
Planning and construction of playground where custodial cottage once stood.	
28. Kaimuki Intermediate School, Oahu	30,000
Planning and construction for general site improvements.	
29. Kaimuki Intermediate School, Oahu	10,000
Planning and construction to widen walkway between Buildings L and J.	
30. Kaimuki High School, Oahu	350,000
Planning and construction for new music building and renovation and expansion of existing facilities.	
31. Kaiser High School, Oahu	30,000
Planning and construction for landscaping of remaining 30 acres. (Balances from Item C 16, Act 68, SLH 1971 may be used for the purposes of these projects.)	
32. Kaimuki High School, Oahu	575,000
Supplement to prior appropriation for construction of auditorium, air-conditioning and equipment.	
33. Kaiser High School, Oahu	10,000
Planning and construction for platform steps and railings on slope between Building A and the cafeteria.	

ACT 226

34. Kaiser High School, Oahu Planning and construction for landscaping and planting of large trees for windbreak around football field.	10,000
35. Kaiser High School, Oahu Planning and construction for lighting system between buildings and facilities.	10,000
36. Kalani High School, Oahu Planning and construction for student activities center.	100,000
37. Kalani High School, Oahu Planning and construction for educational programs. (Supplements Hawaiian site improvement projects.)	205,000
38. Kalani High School, Oahu Combine appropriated funds to improve and expand present facilities and grounds, including but not limited to improving and expanding locker rooms and showers in gym, additional rooms to accommodate home and visiting teams in gym, renovation of bldg. "F" to include counselors' offices, registrar's office, guidance center, and student activities center, and plans and construction for a roof to cover bldg. "F" patio area. Funds appropriated under Part VI, Section 91, items IV, F-24, 9 expended for this project.	300,000
39. Kalani High School, Oahu Planning and construction for media center, administration, athletic and library facilities. (Supplements prior appropriations for this purpose).	200,000
40. Kamehameha Day High School, Oahu Planning and construction for ground improvements and chain-link enclosure.	50,000
41. Kamehameha Day High School, Oahu Planning and construction of site improvements to include landscaping and installation of sprinkler system.	75,000
42. Liholihi Elementary School, Oahu Planning and construction for classroom dividers for eight classrooms. (Supplements prior appropriations.)	30,000
43. Lincoln Elementary School, Library, Oahu Plans and construction for renovation and addition to library.	5,000
44. Mililani High School, Oahu Plans for gymnasium.	85,000
45. Mililani High School, Oahu Plans and construction for walkways between Buildings M and K-1.	5,000
46. Mililani High School, Oahu Plans and construction for athletic field and bleachers and lighting.	324,000
47. Moanalua High School, Oahu Plans for Building G.	73,000
48. Nanakuli High School, Oahu Construction of gymnasium and grounds and site improvements.	830,000
49. Niu Intermediate School, Oahu Planning and construction to improve library, band and chorus room, new stage curtain. (To supplement prior appropriations.)	3,000
50. Pearl City Elementary School, Oahu Plans and construction for reroofing and renovating classrooms and grounds and site improvements.	125,000

51. Pearl Harbor Kai Elementary School, Oahu Plans and construction for playground, including demolition of Building F, site restoration, and landscaping.	50,000
52. Pearl Harbor Kai Elementary School, Oahu Plans and construction for installation of shower facilities for mentally retarded educable and trainable students.	10,000
53. Palolo Elementary School, Oahu Planning and construction for improvements and expansion of library.	200,000
54. Pohakea Elementary School, Oahu Plans and construction for reroofing and correct leaking condition in Building A and portables.	30,000
55. Pearl City High School, Oahu Plans for gymnasium.	200,000
56. Waialua High School, Oahu Plans and construction to soundproof and/or air conditioning of classrooms.	35,000
57. Waikiki Elementary School, Oahu Planning and construction for improvements to existing facilities including the library.	150,000
58. Wailupe Elementary School, Oahu Planning and construction for repair and renovation of the roofs of the two main classroom buildings and construction of chain link fence around basketball courts.	17,000
59. Waimanalo School, Oahu Plans and construction for upgrading the water distribution system.	60,000
60. Wheeler Elementary School, Oahu Plans and construction for demolition of buildings.	50,000

H. DEPARTMENT OF HEALTH

(To be expended by the Department of Health)

1. Children's Hospital, Oahu Grant-in-Aid.	200,000
2. Fort Ruger Special Education Center, Oahu Planning and construction for athletic therapeutic and recreational improvement grant-in-aid.	103,000
3. Fort Ruger Special Education Center, Oahu Planning and construction of a special education center at Fort Ruger grant-in-aid.	342,000
4. Kapiolani Hospital, Oahu Grant-in-aid.	200,000
5. Kuakini Medical Center, Oahu Planning, construction and equipping of a 150-bed care home for elderly people. A day care center for 100 elderly people and a 100 bed intermediate care facility for the proposed progressive health care building at Kuakini Medical Center.	250,000
6. Pacific Institute of Rehabilitative Medicine, Oahu Acquisition of land for lease to the Rehabilitation Hospital of the Pacific for development of medical rehabilitation programs and facilities; provided, however, that in the event that federal matching funds are available for the acquisition of said land funds shall only be allocated to the minimum limit of state funding required; provided, further, that pa-	1,000

ACT 226

tients shall be admitted without regard to the economic circumstance of the admittee. \$1,020,000 in funds from Act 218, SLH 1974, Part IV, Section 72, Item G118, will be used to supplement this appropriation.

7. Saint Francis Hospital, Oahu Planning and construction for modernization of the patient units.	250,000
8. Wahiawa General Hospital, Oahu Grant-in-aid for construction of additional facilities.	334,000
9. Habilitat, Oahu Plans and construction for facilities. 100,000 in funds from Act 218, SLH 1974, Part IV, Section 72, Item G118 will be used to supplement this appropriation.	1,000

M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

1. Aloha Stadium, Oahu Plans and construction of 6-foot high chain-link security fence between the Aloha Stadium grounds and Halawa Valley Estates, extending approximately 1,000 feet.	6,000
2. Arizona Memorial Museum Foundation, Oahu Plans and construction of facilities. 150,000 in funds from Act 218, SLH 1974, Part IV, section 72, Item G118, will be used to supplement this appropriation. Federal funds that may become available may also be used.	1,000
3. Hawaii Loa College, Oahu Plans and construction for facilities and appurtenances. Grant-in-aid.	1,000
4. Hawaii State Senior Center, Oahu Plans and construction for concrete dining area.	8,000
5. Hawaii State Senior Center, Oahu Plans and construction for improvements, including new roof and equipment for free standing kitchen. (To supplement prior appropriations).	19,000
6. Kaneohe Community Service Center, Kaneohe, Oahu Improvements for security.	1,000
7. Moanalua Pedestrian Overpass, Oahu Plans and construction of an extension of an existing pedestrian overpass from the existing overpass on Moanalua Road and end in the stadium parking lot.	250,000
8. Pacific Institute of Rehabilitation Medicine, Oahu Construction of an addition.	500,000
9. Salvation Army Camp Homelani, Oahu Plans and construction for renovation and new development grant-in-aid.	253,350
10. Waikiki Aquarium, Oahu Plans and construction of a sea turtle display pool with beach.	100,000

N. CITY AND COUNTY OF HONOLULU

(To be expended by the City and County of Honolulu)

1. Aiea, Holo Place, Oahu Plans and construction for replacement of water mains.	57,000
2. Atherton YMCA, Oahu Plans and construction for renovation.	26,650
3. Crestview Neighborhood Park, Waipahu, Oahu Planning and construction of a multi-purpose recreation building.	150,000

4. Haleiwa-Waialua Areas, Oahu Land, plans and construction for improvements to roads and drainage systems.	198,000
5. Hauula Playground Extension, Hauula, Oahu Land acquisition. (To be matched by the City and County of Honolulu).	1,000
6. Hawaii Kai Drive, Honolulu, Oahu Planning and construction to extend Hawaii Kai Drive 1400 feet to the church site behind Mariner's Valley. (Funds to be matched one to one by the City and County of Honolulu).	125,000
7. Honolulu Theater for Youth, Oahu Grant-in-aid.	500,000
8. Kahala Recreation Center, Oahu Planning and construction of an additional wing at Kahala Recreational Center for Hui Hookipa O' Kahala Senior Citizens Club. (Funds are to be matched by the City and County of Honolulu.)	75,000
9. Kahaluu Regional Park, Kahaluu, Oahu Land acquisition. (To be matched by the City and County of Honolulu.)	1,000
10. Kailua Beach Park, Oahu Incremental land acquisition. (To be matched by the City and County of Honolulu.)	100,000
11. Kalama Park, Oahu Planning and construction of park in Kalama Valley.	230,000
12. Kalanianaole Highway Safety Improvements, Oahu Planning and construction for pedestrian overpass on Kalanianaole Highway at Kalani High School. (Balances from Item H-38, Act 68, SLH 1971 may be used.)	1,000
13. Kalihi Valley, Oahu Plans and construction for general improvements to the Kalihi Valley area.	500,000
14. Kawaihui Community Park, Oahu Plans and construction for two baseball fields. (To be matched by the City and County of Honolulu.)	100,000
15. Kupehau Park (Former Kalihi-Uka Park) Oahu Plans and construction for development of portions of TMK 1-4-06-51 and 1-4-17-2 into a recreational park.	100,000
16. Mahinui Mini-Park, Kaneohe, Oahu Land acquisition. (To be matched by the City and County of Honolulu.)	100,000
17. Makiki Park Auditorium, Oahu Plans and construction improvements, including fire escape exits.	50,000
18. Makiki Mini-Parks, Oahu Plans and construction for mini-parks in Makiki.	300,000
19. Makiki Parks and Mini-Parks, Oahu Acquisition of Land.	1,000,000
20. Moanalua Road, Aiea, Oahu Plans and construction to widen Moanalua Road from Kalauao Stream to Aiea Interchange. (To be matched by the City and County of Honolulu.)	225,000
21. Moiliili Community Center Improvements, Oahu Plans and construction for improvements, including paving of parking lot.	50,000

ACT 226

22. Maunalahilahi Park, Waianae, Oahu Land acquisition for development of a park.	50,000
23. Noholoa Neighborhood Park, Mililani, Oahu Planning, site preparation and construction of a basketball court, tennis courts and lighting.	150,000
24. Pacific Palisades Playground, Pearl City, Oahu Plans and construction for bleachers and retaining walls.	50,000
25. Recreation Center, Pearl City, Oahu Plans and construction for cover over the bleachers adjacent to the lower ball field.	25,000
26. Waikiki Community Center, Oahu Plans for a community center.	50,000
27. Waikiki Special Design District, Oahu Land acquisition. (To be matched by the City and County of Honolulu.)	100,000
28. Waialua Recreation Park, Oahu Plans and construction for installation of outdoor lights.	100,000
29. Waianae Coast Areas, Oahu Land, plans and construction for improvements to roads and drainage systems.	103,000
30. Waianae Regional Park, Oahu Land acquisition, plans and construction.	50,000
31. Water Drainage Improvements, Haleiwa, Oahu Improve water drainage by enlarging undersize culvert to alleviate flooding above Turner-Hauler Road.	10,000
32. Wawamalu (Queen's) Beach, Oahu Incremental land acquisition and incremental planning and construction Funds may be matched by the Federal funds as available. Unencumbered balances in Item IV-B-22-1 of Section 91, Part VI, Act 195, SLH 1975 shall be used in conjunction with the new appropriation.	100,000
33. Kahuku Water Development, Oahu Water source investigation, planning engineering, land acquisition and construction of a water delivery system.	200,000
34. Honolulu Theatre for Youth Plans and construction of a theatre including workshops. Unexpended balances from Act 218, SLH 1974, Part IVA, Section 72A, Item IVJ24 and City County funds may be used for this project. 1,200,000 in funds from Act 218, SLH 1974, Part IV, Section 72, Item G118 will be used to supplement this appropriation.	1,000

O. CITY AND COUNTY OF HONOLULU

(To be expended by the Board of Water Supply)

1. Mapumapu Road, Kahaluu, Oahu Installation of two 350 foot segments of 8" main and appurtenants.	62,000
2. Water Resources Development Feasibility Study in Waianae District, Oahu Conduct hydrologic-geologic evaluation of additional water sources in the Waianae District that may be developed.	25,000

IV. COUNTY OF KAUAI**B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

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|---|---------|
| 1. Ahukini Pier, Kauai
Planning and reconstruction of existing pier and improvements of parking area for recreational use. To supplement prior appropriations, Item III-A-5 of Act 218, SLH 1974. | 100,000 |
| 2. Wailua Homesteads Motorcycle Park, Kauai
Plans and construction for transfer of motorcycle park and race tracks from Kekaha to Wailua Homesteads. Supplemental funds from prior unencumbered funds. | 1,000 |
| 3. Waimea Landing, Kauai
Land acquisition plans and construction for public parking and restroom facilities. To supplement prior appropriations, Item III-A-6 of Act 218, SLH 1974. | 95,000 |

D. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

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| 1. Aquaculture Industry Feasibility Study for Island of Kauai
Development of an aquacultural industry feasibility study to focus on, but not be limited to the compilation of the Kekaha and Koloa-Poipu development plans. | 50,000 |
| 2. Koloa-Poipu Development Plan, Kauai
Design for preparation of development plans for the Koloa-Poipu area. | 40,000 |

H. DEPARTMENT OF HEALTH

(To be expended by the Department of Health)

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|---|---------|
| 1. Wilcox Hospital Emergency Call System, Kauai
Acquisition of a base station with radio paging capability. To include transmitter, paging encoder and receivers (pocket pagers). Grant-In-Aid. | 5,000 |
| 2. Wilcox Memorial Hospital, Kauai
Plans and construction for ancillary services, including equipment and improvements. To supplement prior appropriations: Item IV-G-3 of Act 176, SLH 1972; Item III-E-5 of Act 218, SLH 1974; Item V-N-HI-1, Act 195, SLH 1975. | 200,000 |

N. COUNTY OF KAUAI

(To be expended by the County of Kauai)

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| 1. Kauai County Administration Building, Kauai
Plans, construction and acquisition for construction for new County administration building. | 200,000 |
| 2. Kilauea Senior Citizen Center, Kauai
Plans and construction or acquisition of a senior citizen gathering and meeting hall. To include purchase of furniture and equipment. | 200,000 |
| 3. Lihue Sewer System, Kauai
Plans and construction of sewage treatment facilities, sewage pump stations, force mains, interceptor and truck sewers and collector sewers. | 89,000 |
| 4. Peekauai Ditch, Kauai
Construction and equipment, plans, including installation of valves, vents and fittings. Supplemental funding. | 20,000 |

SECTION 91G. The appropriations and authorizations in this part include land purchase, plans, site preparation, improvements to land, construction and necessary equipment.

SECTION 91H. In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature, in this Act or in a prior year for projects within the same county.

SECTION 91I. Where appropriations or authorizations for department of education or University of Hawaii projects specify the number of units, classrooms, partitions, etc. and the amount appropriated or authorized is insufficient to plan for and construct the specified number, the agency may plan for and construct less than the number specified.

SECTION 91J. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects included in Part VIA of this Act shall not lapse at the end of the fiscal period for which appropriations are made, provided that all unencumbered appropriations shall lapse on June 30, 1980.

SECTION 91K. The designated expending agency is authorized to delegate to other state or county agencies the planning and construction of projects under Part VIA when it is determined by such agency that it is more advantageous to do so.

SECTION 91L. For any project jointly funded by state and county monies, state funds shall be used only when the county provides at least its pro rata share as indicated in the project authorization.

SECTION 91M. Where county capital improvement projects are partially or totally funded by state grants-in-aid as authorized in this Part, this fact should be appropriately acknowledged during construction and upon completion of these projects."

SECTION 8. Act 195, Session Laws of Hawaii 1975, Item I-C-1 of Section 91, is amended to read as follows:

"C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

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|---|-----------|
| 1. Inter-Island Ferry System, Statewide Funds to contract with private enterprise to provide an inter-island ferry system (Marine Highway) (to be supplemented by future authorizations not to exceed \$4,000,000 in any one year or \$20,000,000 in the aggregate); provided that said contract shall be let after public advertisement for sealed tenders; and provided that such contract is subject to the approval of a majority of each house of the Hawaii State Legislature at the regular session or special session next following the execution of the contract. | 4,000,000 |
|---|-----------|

General obligation bonds may be issued by the Director of Finance in accordance with the provisions of Part 1 of Chapter 39, Hawaii Revised Statutes or by the Director of Transportation in accordance with Chapter

268, Hawaii Revised Statutes; provided that if issued by the Director of Transportation, then all references to the Director of Finance in Part I, Chapter 39, Hawaii Revised Statutes, shall be read as meaning the Director of Transportation. In the case of any contract with any private enterprise under Section 268-1, Hawaii Revised Statutes, where the revenues for such contract are provided by the issuance of general obligation bonds, the provisions of section 268-7 and 268-8, Hawaii Revised Statutes, will not be applicable."

SECTION 9. Section 6, Act 218, Session Laws of Hawaii 1974, is amended by modifying the scope or expenditure pattern of Items A-1 and A-5 enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in Section 6, Act 218, Session Laws of Hawaii 1974, but not listed below. The Act 218 projects and the modifications are as follows:

"1	Planning, development, improv of water res for statewide planning, design and construction of water facilities for new agricultural enterprises and agricultural parks.	G42			
	Total Funding		C	5,000C	5,000C
5	Agricultural Park Subdivision, Statewide	002			
	Plans and construction of on- and off-site improvements for development of agricultural lots, including acquisition of land by purchase fee simple or lease. (To be expended by the Department of Agriculture.)		C	3,000C	3,000C"
	Total Funding				

SECTION 10. Item III-D-1 of Part IVA, Act 218, Session Laws of Hawaii 1974 is amended to read as follows:

"1. Elderly Housing, Kapaa and Eleele, Kauai \$50,000
 To augment federal funds in the construction of federally-aided low rent housing for the elderly at Kapaa and Eleele. The sums shall be expended if bid amounts exceed federal appropriations. This appropriation may also be used to expand community facilities in conjunction with both elderly housing projects."

SECTION 11. Item IV-C-9 of Section 72A of Act 218, Session Laws of Hawaii 1974, is amended to read as follows:

"9. Medical School Facilities 2,094,970
 Supplemental appropriation for capital improvements to be used by the Medical School of the University of Hawaii at the Queen's Medical Center, St. Francis Hospital, Children's Hospital, Kuakini Hospital, Kapiolani Hospital and Leahi Hospital."

SECTION 12. Act 195, Session Laws of Hawaii 1975, is amended by adding thereto a new section 88E reading as follows:

"**SECTION 88E.** Provided that the expenditure of the appropriation made in Part IVA, Item A2, Natural Energy Project, Ke-ahole Pt., Hawaii, is contingent on the solid assurance of major program commitment by the federal government, by a mixture of federal government and private industry or funding by private sector groups for the establishment of research into practical conversion of natural energy sources and ancillary investigation."

SECTION 13. The item in Act 195, SLH 1975, Part V, Section 89, subsection Economic Development, which appropriates funds for research and development of alternate energy sources for Hawaii is amended to read as follows:

	FY 1975-76	FY 1976-77	Total Biennium 1975-77
To provide funds for research and development of alternate energy sources for Hawaii (PED 201), with the exception that funds designated for the Hawaii Natural Energy Laboratory shall be assigned to (PED 102).	368,000A 495,000C	514,000A 410,000C	882,000A 905,000C

SECTION 14. Item IV-N-1-3, of Section 91, Part VI, Act 195, Session Laws of Hawaii 1975, is amended to read as follows:

"3. Malaekahana Beach Park, Oahu 150,000(C)
 Incremental acquisition of about 33 acres (5-6-01: 6 and 7). To be expended by the department of land and natural resources."

SECTION 14A. Item 1V-B-17-2, of Section 91, Part VI, Act 195, Session Laws of Hawaii 1975, is amended to read as follows:

"2. Malaekahana Beach Park, Oahu 250,000(C)
 Incremental acquisition of about 33 acres (5-6-01: 6 and 7). To be supplemented by funds from Item B-111, Section 1 of Act 155, SLH 1969; Item H-4, Section 3 of Act 68, SLH 1971."

SECTION 15. Act 218, Session Laws of Hawaii 1974, Section 39, is amended to read as follows:

ACT 226

"SECTION 39. Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 112B reading as follows:

"SECTION 112B. The appropriation of \$3,000,000 authorized by Section 6, Item A-5, of this Supplemental Appropriations Act for agricultural park subdivisions may be used to acquire land by purchase in fee simple or lease on Oahu, provided that the park is less than 600 acres and that land under pineapple cultivation is not used for the activities or operations of the agricultural park subdivision, except that not more than 10 acres of such pineapple land may be used only for the agriculture park subdivision."

SECTION 16. Act 218, Session Laws of Hawaii 1974; Part IVA, Section 72A, Item III C 7, is amended to read as follows:

"7. Kapaa Library Kauai Paving of parking area, landscaping and general improvements."	75,000
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SECTION 17. Section 104 of Act 195, Session Laws of Hawaii 1975, is amended to read as follows:

"SECTION 104. For the biennium 1975-77, where a program is authorized under Part II of this Act to expend from a revolving, special, or trust fund, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided that such expenditures are approved by the Governor or by the Director of Finance if so delegated by the Governor; and provided, further, that such expenditure shall not exceed the amounts available in such funds."

SECTION 18. Section 110 of Act 195, Session Laws of Hawaii 1975, is amended to read as follows:

"SECTION 110. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal year for which the appropriation is made, provided that all appropriations made to be expended in fiscal year 1975-76 or included in Part VI which are unencumbered as of June 30, 1979 and all appropriations made to be expended in fiscal year 1976-77 which are unencumbered as of June 30, 1980 shall lapse as of that date, and provided, further that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement."

SECTION 19. Act 195, Session Laws of Hawaii 1975, is amended by adding thereto a new section 110A reading as follows:

"SECTION 110A. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature."

SECTION 20. Section 116 of Act 195, Session Laws of Hawaii 1975, is amended to read as follows:

"SECTION 116. All unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met, shall be transferred to the project adjustment fund appropriated in Part II and Part IVA of this Act, and shall be considered a supplementary appropriation thereto.

In the event that the amount specified for a capital investment project listed in this Act or authorized by the legislature in a prior year, or in the future is insufficient and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II and Part IVA; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided, further, that a report of such supplemental allotments and transfers into the project adjustment fund for the period ending December 31, 1975, shall be made to the legislature by February 1, 1976, and a similar report for the period beginning January 1, 1976 and ending December 31, 1976 shall be made to the legislature by February 1, 1977.

Any provision in this Act to the contrary notwithstanding supplemental allotments from the project adjustment fund may be made for any capital investment cost element."

SECTION 21. Section 118 of Act 195, Session Laws of Hawaii 1975, is amended to read as follows:

"SECTION 118. The Governor may authorize the expenditure of funds for capital investment projects not previously authorized in this Act to cope with unemployment, unforeseen emergencies arising from elements such as fires and natural disasters and for any federal aid portion of any capital investment project described in this Act where application for such aid has been made and approval has been denied; provided that the unemployment, or such emergencies or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the State; and provided, further, that the Governor shall use the project adjustment fund authorized in Parts II and IVA and described in Parts IV and IVA to accomplish the purposes of this section."

SECTION 22. Act 195, Session Laws of Hawaii 1975, is amended by adding thereto a new section 118A, reading as follows:

"SECTION 118A. General revenues of the State of Hawaii may be expended by the Governor to cope with unemployment and unforeseen emergencies arising from elements such as fires and natural disasters; provided that the unemployment, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided that the Governor may authorize an increase in repairs and maintenance activities on State facilities to alleviate the unemployment and cope with such emergencies; and provided further that a report on all expenditures for the period ending December 31, 1976 shall be made to the legislature by February 1, 1977, and a similar report for the

ACT 227

period beginning January 1, 1977 and ending June 30, 1977 shall be made to the legislature by August 1, 1977. To accomplish the purpose of this section, the Governor is authorized to expend up to \$5,000,000 in savings as may be available from the appropriated funds of any program in this Act."

SECTION 23. SEVERABILITY. If any portion of this supplemental appropriations Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature thereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 24. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 195, Session Laws of Hawaii 1975, not repealed or modified by this Act.*

SECTION 25. In the event manifest clerical, typographical or other mechanical errors are found in this act, the Governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 26. EFFECTIVE DATE. This Act shall take effect upon its approval.

(Approved June 9, 1976.)

ACT 227

S.B. NO. 2827-76

A Bill for an Act Making an Appropriation for Repair and Maintenance of State Properties and Facilities.

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

SECTION 1. The legislature finds and declares that maintenance, repair, and renovation of public buildings and public facilities are both an obligation and responsibility that the State must attend to. The legislature finds that schools, hospitals, public buildings, and other public facilities are in dire need of repair, maintenance, and renovation. Certain schools and hospitals require immediate repair to correct safety and health code violations that endanger students and patients. Other public buildings and public facilities need repair to correct structural and non-structural deficiencies. Finally, certain public facilities require renovation both to make them practical public places and to enhance their function.

The legislature further finds that the vicissitudes of an inconsistent

*Edited accordingly.

economy create particular economic woes and hardships for an array of construction workers. The unemployment rate for the construction industry is double that of the work force as a whole. Moreover, the construction industry's unemployment rate continues to climb. It is the firm conviction of the legislature that to preserve the income security and economic well-being of Hawaii's people, decisive government policy must be initiated to immediately boost this segment of the economy which has been adversely affected.

This Act, therefore, intends to fulfill the government's responsibility for the maintenance, repair, and renovation of public buildings and facilities by contracting private firms in the construction industry to repair, maintain, and renovate these public facilities.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$15,000,000; \$14,685,000† or so much thereof as may be necessary, for the repair, maintenance, and renovation of state-owned or controlled properties.

SECTION 3. The sum appropriated shall be expended in the following manner by the following agencies for the purpose of this Act:

(1) Department of accounting and general services	\$10,554,242
	\$10,239,242†
(2) Hawaii housing authority	1,208,921
(3) Department of health	2,435,000
(4) University of Hawaii	801,837

Provided that of the \$10,554,242 \$10,239,242† appropriated to the Department of Accounting and General Services, \$5,443,242 may be transferred by the agency for use for any other of its existing program appropriations. Provided further that of the \$10,554,242 \$10,239,242† appropriated to the Department of Accounting and General Services, \$315,000 \$0† shall be expended for construction, furniture, furnishings and equipment for office space for Ombudsman and Legislative Auditor.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1977, shall lapse into the general fund of the State.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1976.)

A Bill for an Act Relating to the Taxation of Real Property.

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

†Vetoed as indicated.

ACT 229

SECTION 1. Section 246-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 246-2 Tax base and rate. Except as exempted or otherwise taxed, all real property in each county shall be subject each year to a tax upon sixty per cent or less of its fair market value determined in the manner provided by law, at such rate as shall be determined in the manner provided in section 248-2. However, the director of taxation may use as the tax base a lesser percentage of fair market value; if he does so he shall certify to the county council the percentage so used at the time he furnishes the council the calculations as to the tax base pursuant to section 248-2(f), and if he does not do so he shall certify to the council that he has used sixty per cent of fair market value as the tax base. Both as to the calculations as to the tax base and also as to the percentage of fair market value used as the tax base, the director's certificate to the council shall be conclusive insofar as the validity of any tax rate is concerned, except for the right to appeal assessments of real property as may be provided by law. Whether the director uses as the tax base sixty per cent of fair market value or some other percentage of fair market value, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered, except as the result of a decision on an appeal as provided by law."

SECTION 2. Section 248-2, Hawaii Revised Statutes, is amended by amending the definition of "net taxable real property" in subsection (a) to read as follows:

"(2)"Net taxable real property" or "net taxable buildings" or "net taxable lands" means, as indicated by the context, the percentage of the fair market value of property determined under section 246-2, which the director of taxation certifies as the tax base as provided by law less exemptions as provided by law and, in all cases where appeals from the director's assessment are then unsettled, less fifty per cent of the value in dispute."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1976.

(Approved June 9, 1976.)

ACT 229

S.B. NO. 2274-76

A Bill for an Act Relating to Real Property Taxation.

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

SECTION 1. Section 248-2, Hawaii Revised Statutes, is amended as follows:

1. Subsections (b) and (c) are amended to read:

*Edited accordingly.

"(b) The council of each county shall increase or decrease the tax rates for buildings and for all other real property, exclusive of buildings, for each category of property established in accordance with subsection 246-10(d); provided that in increasing or decreasing tax rates a single tax rate shall be applied to net taxable real property within category I. A resolution increasing or decreasing the tax rates in each county shall be adopted on or before June 20 preceding the tax year for which property tax revenues are to be raised according to the following procedures:

- (1) After determining that any tax rate certified by the director of taxation under subsection (f) should be increased or decreased and the date of a public hearing concerning such determination, the council shall advertise its intention to increase or decrease the tax rate and the date, time, and place of the public hearing in a newspaper of general circulation in the county in which the rates are to be increased or decreased. The date of the public hearing shall be not less than ten days after the advertisement is first published and shall set forth the tax rates to be considered by the council.
- (2) After the public hearing provided for in paragraph (1), the council shall readvertise and reconvene within two weeks to adopt a resolution fixing the tax rate for the tax year for which property tax revenues are to be raised. The advertisement shall state the new rate to be fixed and the amount of the increase or decrease, and the date, time, and place of the public hearing scheduled for fixing such rate. The date, time, and place of the public hearing shall also be announced at the public hearing required by paragraph (1). If the resolution fixing the tax rate is not adopted within two weeks from the public hearing required by paragraph (1), the council shall again advertise and meet as required by paragraph (1).
- (3) If after adopting an increase or decrease in the tax rate as provided by paragraphs (1) and (2), the council determines that it requires a further increase or decrease in a tax rate or fails to act in any specified period, the council shall readvertise and follow the requirements of paragraphs (1) and (2).

If the council of each county does not increase or decrease the tax rate certified to the council by the director of taxation under subsection (f) as provided in this subsection, the tax rate so certified shall be the tax rate in the county for the tax year for which the property tax revenues are to be raised.

(c) The council of each county shall increase or decrease the tax rates applicable in the county using the following method:

- (1) The net taxable real property of each category shall be divided by the net taxable real property for the county to determine the percentage of revenue to be raised from each category;
- (2) The percentage of revenue to be raised from each category shall be multiplied by the total revenue to be raised from real property in the county in order to determine the amount of revenue to be derived from each category;
- (3) The net taxable buildings within categories II, III, and IV, respectively,

- shall be multiplied by the applicable building tax factor and the product thereof divided by the modified net taxable value of real property in that category which quotient shall be multiplied by the amount of revenue to be raised from that category in order to determine the amount of revenue to be raised from the tax on net taxable buildings which amount shall be divided by the net taxable value of buildings in that category to determine the tax rate which shall be expressed in terms of tax per \$1,000 of net taxable buildings computed to the nearest cent;
- (4) The net taxable lands within categories II, III, and IV, respectively, shall be divided by the modified net taxable value of real property in that category which quotient shall be multiplied by the amount of revenue to be raised from that category in order to determine the amount of revenue to be raised from the tax on net taxable lands which amount shall be divided by the net taxable value of lands in that category to determine the tax rate which shall be expressed in terms of tax per \$1,000 of net taxable lands computed to the nearest cent;
- (5) The amount of revenue to be raised from net taxable real property within category I, shall be divided by the net taxable real property in category I to determine the tax rate which shall be expressed in terms of tax per \$1,000 of net taxable real property computed to the nearest cent.”

2. Subsections (e), (f), and (g) are amended to read:

“(e) If the tax rates for the tax year in any county are increased or decreased the council shall notify the director of taxation of the increased or decreased rates, and the director shall employ such rates in the levying of property taxes in that county as provided by law.

(f) The director of taxation shall on or before May 1 preceding the tax year furnish each council with a calculation certified by him as being as nearly accurate as may be, of the net taxable real property within the county, separately stated for each category established in accordance with section 246-10(d) for net taxable lands and for net taxable buildings plus such additional data relating to the property tax base as may be necessary. In addition, the director shall certify to the council of each county, the base tax rate for each category of real property established in accordance with section 246-10(d) for the forthcoming tax year in each county by determining such tax rates by the method established in subsections (c), (d), and (e) and by using the net taxable assessed value for the forthcoming year and the county's real property revenues for the current year. Upon their determination such tax rates shall be the tax rates for the county for the forthcoming tax year, unless the county increases or decreases the tax rates as provided in subsection (b).

(g) Insofar as the validity of any tax rate is concerned, the provisions of subsections (b) and (f) of this section as to dates, shall be deemed directory; provided that all other provisions of subsections (b) and (f) and all provisions of subsections (c), (d), and (e) shall be deemed mandatory.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring. In making the deletions

allowed by this section, the revisor shall retain the amendments made by section 25, Act 157, Session Laws of Hawaii 1975. The intention of this Act is not to repeal or affect Act 157.*

SECTION 3. This Act shall take effect on January 1, 1977.

(Approved June 9, 1976.)

ACT 230

S.B. NO. 2501-76

A Bill for an Act Relating to Secondhand Dealers.

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

SECTION 1. The legislature finds that a serious problem exists in the theft of metal from construction sites, hardware stores, construction companies and like enterprises and the sale of such stolen metal to secondhand dealers. The purpose of this Act is to require secondhand dealers who deal in scrap metal to keep records of purchases and sales of scrap metal which may aid in the apprehension of those who engage in the theft and sale of scrap metal and to make it more difficult for such criminals to dispose of stolen metal by requiring the seller or his agent to file a written statement with the scrap dealer that the seller or his agent has the lawful right to sell and dispose of the scrap.

SECTION 2. Chapter 445, Hawaii Revised Statutes, is amended by adding the following new sections to be appropriately designated and to read as follows:

"Sec. 445-231 Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Scrap" means any secondhand or used metal except those used motor vehicle parts provided in chapter 289.
- (2) "Scrap dealer" means any person engaged in the business of buying, selling, or dealing in scrap, or any person operating, carrying on, conducting, or maintaining a scrap yard.
- (3) "Scrap yard" means any yard, plot, space, enclosure, building, or any other place where scrap is collected, stored, gathered together, and kept.

Sec. 445-232 License. Any person who engages in the business as a scrap dealer shall be licensed with the treasurer. The treasurer shall have the power to grant license and to revoke such license upon reasonable cause. The annual license fee shall be \$10.

Every license granted under this section shall designate the place where business is carried on and sufficient identifying information including the licensee's name, address, general excise tax license number, and other information which may be prescribed by the treasurer.

Sec. 445-233 Statement required. Every scrap dealer, when he purchases

*Edited accordingly.

ACT 231

scrap within the State, shall obtain a written statement signed by the seller or his agent certifying that the seller or his agent has the lawful right to sell and dispose of the scrap. This statement shall also contain the seller's name; his business or residence address; his occupation; a description, including serial numbers and other identifying marks, when practical, of every scrap; the amount received by the seller; the date, time and place of the sale; and the license number of any vehicle used to deliver the property to the place of purchase.

The scrap dealer shall require the seller to verify his identity by presenting proper identification. The scrap dealer shall keep at his place of business the signed written statement from the seller for a period of two years after the date of purchase and the statement may be examined at any time by the treasurer or the chief of police.

Sec. 445-234 Applicability. Any person required to be licensed under chapter 289 or under section 445-171 shall not be required to pay an additional fee under section 445-232; provided that such person shall obtain the license required by section 445-232 and shall follow the requirements of sections 445-232 and 445-233 when acting as a scrap dealer.

Sec. 445-235 Prohibitions; penalty. Any person who violates sections 445-232 and 445-233, or any person who falsifies a statement required by section 445-233, shall be guilty of a misdemeanor."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1976.

(Approved June 9, 1976.)

ACT 231

H.B. NO. 1441

A Bill for an Act Relating to Night Hunting of Birds and Mammals.

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

SECTION 1. Part I of Chapter 191, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 191- Night hunting on private lands; prohibition. (a) It shall be unlawful for any person to hunt, pursue, capture, take, injure, kill or possess any game bird, game mammal, or wild bird at night on privately owned lands. For the purpose of this section, "night" means the period between one-half hour after sunset and one-half hour before sunrise. Violation of this section is a misdemeanor.

(b) Any hunting gear or other equipment including any motor vehicles used or possessed in violation of this section shall be subject to the seizure and forfeiture provisions of section 187-16."

*Edited accordingly.

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 9, 1976.)

ACT 232

H.B. NO. 1998-76

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

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

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, and corporations for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

Section 37-77, Hawaii Revised Statutes.

REFUND OF TAXES:

	Division	Amount
Andreasen, Maurice (General Excise)	First	\$ 333.84
Kaneshiro, Kenneth Y. (State Income)	First	1,290.65
Brede, Lawrence Sr. (Real Property)	First	1,580.21
Chock, Herbert Y. C. (Real Property)	First	145.11
The Assemblies of God in the Hawaiian Islands, Inc. (Real Property)	First	\$ 560.72
Kalapa, Mabel Pung	First	1,152.49
Keys, George F.	First	23.37
McCullough, Baron Lamont	First	477.72
Moriwaki, Takeo	First	1,891.40
Puna Sugar Company, Ltd., c/o Amfac Inc.	Third	3,406.17

Chapter 662, Hawaii Revised Statutes.

JUDGMENTS AGAINST THE STATE AND SETTLEMENT OF CLAIMS:

Allen, Martin H., Allen, La Verne and Allen, Marla Jo, a
minor, by Allen, Martin H.

Civil No. 2974, Third Circuit

Date of Judgment: August 26, 1975

Amount of Judgment	\$ 750.00
Attorney's fees	150.00
Costs	109.22
4% Interest:	28.25

1,037.47

*Edited accordingly.

ACT 232

Dias, Mary			
Civil No. 40094, First Circuit			
Date of Judgment: December 1, 1975			
Amount of Judgment:	12,000.00		
4% Interest:	322.67	12,322.67	
Kahalewai, Richard			
Civil No. 39876, First Circuit			
Date of Judgment: July 7, 1975			
Amount of Judgment:	\$2,400.00		
4% Interest:	103.73	\$ 2,503.73	
Scharsch, Vincent and Scharsch, Ethel Leilani			
Civil No. 43426, First Circuit			
Date of Judgment: September 11, 1975			
Amount of Judgment:	\$11,000.00		
4% Interest:	394.78	11,394.78	
Hawaiian Insurance & Guaranty Co., Ltd.			
Civil No. 38937, First Circuit			
Date of Settlement: March 12, 1975			
Amount of Settlement:		7,500.00	
Bacos, Raphael et al.			
Civil No. 2102, Second Circuit			
Date of Judgment: March 13, 1975			
Payable to: Legal Aid Society of Hawaii			
Amount of Judgment:	\$3,000.00		
4% Interest:	168.33	3,168.33	
Bond, Michael by Bond, Jerry D.			
Civil No. 1391, Fifth Circuit			
Date of Judgment: February 21, 1975			
Amount of Judgment:	\$3,750.00		
4% Interest:	218.75	3,968.75	
Town, Michael A. and Town, Bonnie C.			
Civil No. 1941, Second Circuit			
Date of Judgment: March 20, 1975			
Amount of Judgment:	\$89.77		
4% Interest:	4.97	94.74	
Kau, Jane			
Civil No. 39886, First Circuit			
Date of Judgment: March 18, 1975			
Amount of Judgment:	\$6,750.00		
4% Interest:	375.00	7,125.00	
MacMillan, Donna			
Civil No. 42844, First Circuit			
Date of Judgment: January 12, 1976			
Amount of Judgment:	\$11,500.00		
4% Interest:	255.56	11,755.56	

Section 37-77, Hawaii Revised Statutes.

MISCELLANEOUS CLAIMS:	Amount
Ebata, Asako M. Property loss in fire at Koloa School, Koloa, Kauai, on November 25, 1973.	56.00
Hadama, Pauline Mahikoa Property loss in fire at Koloa School, Kauai, on November 25, 1973.	518.90
Town, Robert C. Property loss in fire at Koloa School, Kauai, on November 25, 1973.	121.00
Nakamatsu, Lucille Y. Property loss in fire at Waimea High and Intermediate School on September 30, 1975.	462.00
Le Bleu, Lloyd R. Damages to car by inmate at Laumaka Conditional Release Center.	105.20
Lino, Mary V. Reimbursement for loss of personal property (wristwatch band) caused by a patient at Hawaii State Hospital, May 5, 1975.	23.40
Dupio, Idamay Damages to car by patient at Waimano Training School and Hospital, August 13, 1975.	82.99
Lindsey, Thelma Reimbursement for work with children at the Waimea Day Care Center, Hawaii.	2,250.00
Dupio, Idamay Damages to wristwatch band caused by patient at Waimano Training School and Hospital, September 29, 1974.	10.30
Hatori, Mabel Damages to car by patient at Waimano Training School and Hospital, February 28, 1975.	74.05
Ku, Emma K. Damages to wristwatch caused by patient at Waimano Training School and Hospital, November 24, 1975.	36.40
Otsuka, Glenn Damages to car by patient at Waimano Training School and Hospital, August 12, 1975.	4.16

ACT 233

REFUND OF UNCLAIMED PROPERTY ESCHEATED TO THE STATE:

	Amount
Kunewa, Herman Administrator of the estate of Elizabeth Pine Solomon, deceased.	\$181.00

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State: (i) upon vouchers approved by the director of the department of taxation as to claims for overpayment of taxes and (ii) upon vouchers approved by the director of the department of budget and finance as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate of four per cent a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, and all unexpended balances thereof after payment shall lapse into the general fund of the State.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1976.)

ACT 233

H.B. NO. 2001-76

A Bill for an Act Making Appropriations to the Judiciary for the Fiscal Biennium July 1, 1975, to June 30, 1977, and Authorizing the Issuance of Bonds.

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

SECTION 1. This act shall be known and may be cited as the Judiciary Supplemental Appropriations Act of 1976.

SECTION 2. This Act amends Act 197, Session Laws of Hawaii 1975.

SECTION 3. These appropriations and authorizations, as the case may be, set forth opposite the cost categories in Section 3, Act 197, Session Laws of Hawaii 1975, for the following programs, are amended to read as follows:

Item No.	Program	FY 1975-76	FY 1976-77	Total biennium 1975-77
1	Supreme Court Operating	22.00*	27.00*	
		472,664A	560,672A	1,033,336A
2	Circuit Courts Operating	182.00*	189.00*	
		3,420,380A	3,672,982A	7,093,362A
	Investment: Capital		194,000A	194,000A

4	Family Courts Operating	187.50*	187.50*	
		3,168,941A	3,196,600A	6,365,541A
5	District Courts Operating	251.00*	263.00*	
		3,368,600A	3,567,333A	6,935,933A
	Investment: Capital	1,088,000A	208,000A	1,296,000A
6	Administrative Director Services Operating	20.00*	20.00*	
		660,944A	835,756A	1,496,700A
	Investment: Capital	231,000A	4,273,000A	4,504,000A

SECTION 4. Section 5 of Act 197, Session Laws of Hawaii 1975 is amended to read:

"**SECTION 5.** Whenever the need arises, the Chief Justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for research and development and operating purposes; provided that such transfer shall be with the concurrence of the President of the Senate and the Speaker of the House of Representatives; and provided further that such transfer shall not be made to implement any collective bargaining contracts signed after this Legislature adjourns sine die."

SECTION 5. Section 197, Session Laws of Hawaii 1975 is amended 1975 is hereby repealed.†

SECTION 6. Act 197, Session Laws of Hawaii 1975, is amended to include a new section 7A to read:

"**SECTION 7A.** The appropriations and authorizations, as the case may be, set forth opposite the cost categories in Section 3, Act 197, Session Laws of Hawaii 1975, are further amended to provide \$7,332 for one (1) additional Account Clerk III (SR-10 level) for the district court of the fifth circuit, Lihue, Kauai."

SECTION 7. Act 197, Session Laws of Hawaii 1975 is amended to include a new section 7B to read:

"**SECTION 7B.** Provided that of the sum appropriated to Administrative Director Services, the sum of \$101,000 in general funds for fiscal year 1976-77 shall be used to fund Act 164, Session Laws of Hawaii 1975 increment and longevity increases.

Increases for officers and employees for whom pay increases are provided by this section and whose compensation is paid, in whole or in part, from federal funds or in part, from federal funds or from special funds of the State, shall be paid from the respective federal funds or special funds to the extent available."

SECTION 8. Act 197, Session Laws of Hawaii 1975 is amended to include a new section 7C to read:

"**SECTION 7C.** Provided that of the sum appropriated to the Ad-

†Probably should read: "Section 7 of Act 197, Session Laws of Hawaii 1975 is hereby repealed."

ministrative Director Services, the sum of \$5,000 in general funds for fiscal year 1976-77 shall be used to publish and distribute a revised handbook of small claims court information for public use."

SECTION 9. The capital improvement appropriations and authorizations, as the case may be, set forth opposite the cost categories in Section 8, Act 197, Session Laws of Hawaii 1975 for the following programs, are amended to read as follows:

Item No.	Program and Capital Project	FY 1975-76	FY 1976-77	Total biennium 1975-77
1	State Capitol Complex, Oahu Renovation of the Kekuanao'a Building, the Kapuaiwa Building, and Aliiolani Hale to provide additional office space for use by the Judiciary.			
	Design	54	2	56
	Construction		1461	1461
	Total Funding	54A	1463A	1517A
2	Advance Planning, Judiciary Statewide Advance planning to establish the statewide physical facility needs of the Judiciary, and the preparation of staff studies relating to physical facilities.			
	Design	10	10	20
	Total Funding	10A	10A	20A
4	Honolulu District Court Land acquisition and design, to provide for a new facility for Honolulu District Court and related Judiciary services.			
	Land Acquisition	1020		1020
	Design	68	198	266
	Total Funding	1088A	198A	1286A

SECTION 10. Act 197, Session Laws of Hawaii 1975, is amended by adding a new Part III-A to read:

"PART III-A. Additional Capital Improvement Projects

SECTION 8A. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, to be expended by the Judiciary out of moneys in the state treasury received from general revenues. The appropriations and authorizations in this Part III-A include land purchase, plans, site preparation, improvements to land, construction and necessary equipment." (In thousands of dollars.)

Item No.	Program and Capital Project	Program ID	FY 1975-76	FY 1976-77	Total biennium 1975-77
The Judicial System					
Support Services (to be expended by the Judiciary)					
1	Administrative Director Services	JUD 201			
1	State Judiciary Complex, Oahu To construct a new State Judiciary complex in the vicinity of the State Capitol complex.		2,700A	2,700A	
2	Minor CIP—Statewide To alterate, modify and upgrade existing State Judiciary buildings to support the Judiciary on a statewide basis.		100A	100A	
Court Operations					
Circuit Courts					
3	Renovation of Second Circuit Court building—Wailuku, Maui To accommodate additional judge and staff for Circuit Court of the Second Circuit.		194A	194A	
District Courts					
4	Wahiawa District Court To provide new district court in Wahiawa Civic Center.		10A	10A	

SECTION 11. Effective Date. This Act shall take effect on July 1, 1976.
 (Approved June 9, 1976.)

ACT 234

H.B. NO. 2147-76

A Bill for an Act Relating to Loans Insured by the Department of Agriculture.

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

SECTION 1. Section 155-5, Hawaii Revised Statutes, is amended to read:

"Sec. 155-5 Loans insured by the department. (a) The department of agriculture may insure up to ninety per cent of the principal balance of a loan, plus interest due thereon, made to a qualified farmer by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates.

(b) Loans insured under this section shall be limited by the provisions of sections 155-9 through 155-13 for purposes of class "A" through class "E".

(c) Interest charged on an insured loan made under the provisions of this section shall be determined by the department of agriculture based on the market rate of interest charged by the private lender for similar type of loan.

(d) When the application for an insured loan has been approved by the department, the department shall issue to the lender a guaranty for that percentage of the loan on which it insures payment of principal and interest. The lender shall collect all payments from the borrower and otherwise service the loan.

ACT 235

(e) In return for the department's guaranty, the lender shall remit out of interest collected an insurance fee of one-half of one per cent a year on the unpaid principal balance of the insured portion of the loan, provided that this fee shall not be added to any amount which the borrower is obligated to pay.

(f) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the department shall issue, on request of the lender, a check for the percentage of the overdue payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The department shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower.

(g) Under conditions specified in regulations of the department, the lender may request that a portion or all of the guaranteed percentage of the principal balance of the loan be converted to a participating share held by the department subject to section 155-6.

(h) Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the department. Within thirty days of the notification, the department may elect to request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim.

(i) The lender may reduce the percentage of the principal balance insured under this section at any time."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon approval.

(Approved June 9, 1976.)

ACT 235

S.B. NO. 2267-76

A Bill for an Act Relating to the Establishment of Developmental Rates for Facilities Used by General Aviation Activities.

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

SECTION 1. The legislature finds it in the public interest to establish low developmental rates for state facilities which are used by general aviation activities. The purpose is to stimulate economic growth and expansion of this undeveloped industry at a time when this State needs a larger light industry base. The air carrier segment of the general aviation industry is well-developed and viable, however, overall the general aviation industry (aircraft, 12,500 pounds or less) has less than one-half the aircraft of an average state, on a per capita basis.

In this age of modern technology, the use of airplanes by the private sector has become a common-place occurrence. Business firms use planes to get their employees from their desks to job sites and return during office hours. Further,

*Edited accordingly.

flight training is needed to prepare our youth for aviation careers, or as an adjunct to the business world.

Our state airports system is self-supporting, in that all airport improvements are financed from the nonprofit state airport system trust fund. The largest revenue items in this fund are transpacific air carrier landing fees and fuel taxes, together with concessionaire rentals. The largest expenditures go for reef runways, runway extensions, new terminal buildings, "jumbo jet" gull wing extensions, etc. Compared to the size of this "cash flow", revenue received from, and spent on, general aviation facilities is insignificant. The airport land rental rates shall be based on a percentage of the market value of commercially held, industrial property adjacent to the airport. Presently, many general aviation concerns hold leases for comparable land at different rates because the leases were initiated in different years while rates were increasing. The result is that as each lease comes up for renewal, that operator must meet the higher rate with a pass-thru to his customers or terminate his operation. More job opportunities and capital investments are needed now. There is a need to examine all lease and rental rates to equal a percentage of the fair market rental of buildings and land areas.

SECTION 2. Section 261-7(e), Hawaii Revised Statutes, is amended to read:

"(e) Buildings and land areas for general aviation activities; developmental rates. The department may from time to time establish developmental rates for buildings and land areas used exclusively for general aviation activities at rates not less than fifty per cent of the fair market rentals of the buildings and land areas and may restrict the extent of buildings and land areas to be utilized."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved June 9, 1976.)

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Purpose. The legislature finds that many public assistance recipients, in the same way as many citizens generally, may have need for psychotherapeutic services designed to help them adjust to living conditions and situations, better cope with and constructively change their behavior and environment, and develop their sense of worth and self-esteem. It is further determined that services to meet these objectives are offered through a wide variety of clinical techniques, by practitioners throughout the State, but that current

*Edited accordingly.

ACT 237

public assistance rules limit recipients to services which operate on the interaction of the one practitioner working with an individual client. In recognition of developing evidence that group therapy techniques, in which a practitioner may work with several clients who benefit from collective interaction, have demonstrated significant therapeutic value, the purpose of this Act is to make group therapy services available under the Medicaid program to all public assistance recipients needing and desiring such services.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and read:

"Sec. 346- Group therapy; reimbursement for services. (a) The department shall establish rules pursuant to chapter 91 to permit payment to providers of group therapy services to recipients under this chapter.

(b) For the purposes of this section, "group therapy" shall be defined as psychotherapeutic treatment delivery in which a patient receives treatment as a member of a group of patients receiving similar treatment, involving interaction both between the patient and the practitioner and among patients, and which is supervised by a practitioner licensed under chapters 453 or 465."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1976.

(Approved June 9, 1976.)

ACT 237

H.B. NO. 2473-76

A Bill for an Act Relating to a Staggered System of Motor Vehicle Registration.

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

SECTION 1. The purpose of this Act is to provide for the registration of motor vehicles in the various counties of Hawaii on a staggered basis, if a county elects to do so, and to authorize the Director of Finance of the county to promulgate rules and regulations to carry out the purpose of the act.

SECTION 2. Section 286-51, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 286-51 Registration, expense. Every certificate of registration issued under this part shall expire at midnight on December 31 of each year and shall be renewed annually before April 1 of each year upon application by the registered owner by presentation of the last issued certificate of registration or the last issued application for renewal, such renewal to take effect as of January 1 of each year; provided that, the certificate of registration for each motor vehicle in the counties of the State may be renewed on a staggered basis, if a county elects to do so. The treasurer of each county may promulgate rules and regulations to carry

*Edited accordingly.

out the purposes stated in this section and shall expend the necessary funds from his operating funds as may be necessary for these purposes; provided further, that the treasurer, if he has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to the renewal, that the registered owner deposit or pay bail with respect to all such summons or citations. The certificates of registration issued hereunder shall show, in addition to all information required under section 286-47, the serial number of the tag or emblem and shall be valid during the registration year only for which they are issued. The certificates of ownership need not be renewed annually but shall remain valid as to any interest shown therein until canceled by the treasurer as provided by law or replaced by new certificates of ownership as hereinafter provided.

This part shall be administered by the treasurer in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws and the cost of container provided in section 286-47; provided, that for each new certificate of ownership issued by the treasurer under section 286-52, the treasurer shall charge a fee of \$1, which fee shall be deposited in the general fund."

SECTION 3. The Director of Finance of each county shall expend the necessary funds from his operating funds as may be necessary for the purposes of this Act.

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 5. This Act shall take effect on January 1, 1978.

(Approved June 9, 1976.)

ACT 238

H.B. NO. 2698-76

A Bill for an Act Relating to Parking Tickets.

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

SECTION 1. Section 291C-111, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director of transportation is authorized to and the counties by ordinance may with respect to highways under their respective jurisdictions prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic; provided that the violation of any law, or any ordinance,

*Edited accordingly.

whether or not established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles, shall constitute a violation under the Penal Code. The counties shall not provide any other penalty, civil or criminal, or any other charge, in the form of rental or otherwise, in place of, or in addition to, the fine to be imposed by the district court for any violation of any ordinance prohibiting or restricting the stopping, standing, or parking of vehicles.

The appropriate police department and county or prosecuting attorney, of the various counties, as the case may be, shall enforce any law or ordinance prohibiting or restricting the stopping, standing, or parking of vehicles, including, but not limited to, the issuance of parking tickets. Any person convicted of a violation of any law or ordinance, whether or not established under this or any other section, prohibiting or restricting the stopping, standing or parking of vehicles, shall be subject to a fine to be enforced and collected by the district courts of this State and to be deposited into the state general fund for state use."

SECTION 2. Section 291C-163, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

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

- (18) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;
- (19) Restricting pedestrian crossing at unmarked crosswalks;
- (20) Regulating persons propelling push carts;
- (21) Regulating persons upon skates, coasters, sleds, and other toy vehicles;
- (22) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (23) Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;
- (24) Adopting requirements on stopping, standing, and parking on streets and highways within their respective jurisdictions except as provided in section 291C-111;
- (25) Adopting such other traffic regulations as are specifically authorized by this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 9, 1976)

ACT 239

H.B. NO. 2894-76

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Chapter 514, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"Sec. 514- Parking stalls. Notwithstanding any provision of the declaration, apartment owners with the consent of the lessor and mortgagee, if any, shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of the declaration and respective apartment leases or deeds involved. Such amendment shall be effective only upon recording or filing of the same of record with the bureau of conveyances.

Sec. 514- Attorney's fees and expenses of enforcement. All costs and expenses, including reasonable attorney's fees, incurred by or on behalf of the association for:

- (1) Collecting any delinquent assessments against any owner's apartment;
- (2) Foreclosing any lien thereon;
- (3) Enforcing any provision of the declaration, bylaws, house rules, and the Horizontal Property Act; or
- (4) The rules and regulations of the real estate commission; against an owner or any occupant of an apartment shall be promptly paid on demand to the association by the apartment owner; provided that if the

*Edited accordingly.

claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorney's fees, incurred by the apartment owner as a result of the action of the association, shall be promptly paid on demand to the apartment owner by the association.

Sec. 514- Disclosure requirements. (a) Each developer of a project subject to this chapter shall prepare and provide to each prospective initial purchaser an abstract which shall contain the following:

- (1) The name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager or his agent;
 - (2) A breakdown of the annual maintenance fees and the monthly estimated cost for each apartment, revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles;
 - (3) A description of all warranties for the individual apartments and the common elements, including the date of initiation and expiration of any such warranties; and
 - (4) A statement of the proposed number of apartments to be used for residential or hotel use in a mixed use project containing apartments for both residential and hotel use;
 - (5) A statement of the extent of commercial or other non-residential development in the project.
- (b) This section shall be administered by the real estate commission."

SECTION 2. Section 514-10, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 514-10 Common profits and expenses. The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners, including the developer, in proportion to the common interest appurtenant to their respective apartments; provided that in a mixed use project containing apartments for both residential and commercial use, such charges and distributions may be apportioned in any fair and equitable manner as set forth in the declaration; provided further that in the case of limited common elements all costs and expenses of every description pertaining thereto including but not limited to the cost of the maintenance, repair, and replacement of, and the making of any additions and improvements to, any limited common element may be charged to the owners of the apartments for the use of which such limited common element is reserved in any equitable manner as set forth in the declaration. An apartment owner, including the developer, shall become obligated for the payment of the share of the common expenses allocated to his apartment at the time the certificate of occupancy relating to his apartment is issued by the appropriate county agency."

SECTION 3. Section 514-20, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 514-20 Contents of bylaws. The bylaws shall provide for at least the

following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) Seventy-five percent of the apartment owners may at any time modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after a certificate of occupancy for the project has been issued by the appropriate county agency.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose.
- (14) A director shall not vote at any board meeting on any issue in which he has a conflict of interest.

ACT 240

- (15) No resident manager of the condominium shall serve on the board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special shall be sent to each member of the association of apartment owners at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting, the place of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the association, if any.
- (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only.
- (19) The resident manager or managing agent, or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
- (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- (22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 9, 1976.)

ACT 240

H.B. NO. 2987-76

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items and for Salary Adjustments of Employees Excluded from Certain Bargaining Units.

*Edited accordingly.

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

PART I

SECTION 1. There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) for the fiscal year 1976-1977 the following sums or so much thereof as may be necessary to fund all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 2, 3, 4, 6, 7, 8, 9, 10, 11, and 13 for salary increases and other adjustments for officers and employees excluded from the foregoing bargaining units:

General Funds	\$11,378,250	Federal Funds	\$ 2,503,065
Special Funds	\$ 2,829,862	Other Funds	\$ 1,066,227

SECTION 2. Any provisions of law to the contrary notwithstanding, the Governor is authorized to utilize the sums appropriated or authorized by this Part for salary increases for officers and employees excluded from collective bargaining units 2, 3, 4, 6, 7, 8, 9, 10, 11, and 13 under Chapter 89, Hawaii Revised Statutes, provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of the foregoing bargaining units.

SECTION 3. Funds appropriated or authorized by this Part shall be allotted by the director of finance for the purposes of this Part.

PART II

SECTION 4. There is hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) for the fiscal year 1976-1977 the following sums or so much thereof as may be necessary to fund all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 3, 4, 10, and 13 and for salary increases and other adjustments for officers and employees excluded from the foregoing bargaining units:

General Funds	\$840,544	Federal Funds	\$63,169
Special Funds	\$ 35,273		

SECTION 5. Any provisions of law to the contrary notwithstanding, the Chief Justice is authorized to utilize the sums appropriated or authorized by this Part for salary increases for officers and employees excluded from collective bargaining units 3, 4, 10, and 13 under Chapter 89, Hawaii Revised Statutes, provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of the foregoing bargaining units.

SECTION 6. Funds appropriated or authorized by this Part shall be allotted by the administrative director of the courts for the purposes of this Part.

PART III

SECTION 7. Salary increases provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special

ACT 241

or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 8. Funds appropriated or authorized by this Act not expended or encumbered by June 30, 1977 shall lapse as of that date.

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

(Approved June 9, 1976.)

ACT 241

H.B. NO. 2878-76

A Bill for an Act Relating to State Insurance Administration.

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

SECTION 1. Section 41-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 41-4 Insurance management. The comptroller shall appoint a risk manager, to supervise and direct the determination and treatment for the best interests of the State of all risk appertaining to its property, personnel, and operations and for this purpose, the risk manager shall:

- (1) Obtain from the head of each department information and data respecting the property, personnel, and operations of the department in order to determine the potential exposure to loss from every hazard;
- (2) Formulate and direct a program for the reduction of risks by the use of all technical personnel and facilities of the State; and
- (3) Insure each exposure to loss by the purchase of insurance, either on a complete or excess coverage basis, or to cover the same in whole or in part by the insurance fund.

The term "department" as used in this section includes any board, commission, or other agency of the State. Premiums on any policy purchased under this section shall be payable out of the insurance fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 15, 1976.)

ACT 242

H.B. NO. 2253-76

A Bill for an Act Relating to Residential Leaseholds.

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

SECTION 1. Section 516-1, Hawaii Revised Statutes, is amended by

*Edited accordingly.

amending the definition of "owner's basis" to read:

"(14) "Owner's basis" means the current fair market value of the lot. The fair market value shall be established to provide the lessor with just compensation for his interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value shall be determined by whichever following method provides just compensation and gives the greater consideration to the lessee's interest:

- (A) The sum of: (1) the future rental income stream for the lot for the term of the lease discounted to present worth from the expiration date of the lease; and (2) the value of the lessor's reversionary interest in the lot discounted to present worth from the expiration date of the lease. The discount rate shall be based on the maximum rate of return for insured passbook demand saving account paid by the savings and loan institutions in Hawaii plus three and three-fourths per cent; provided, however, that the discount rate may be modified by mutual agreement of the lessor, lessee, and the authority; or
 - (B) The current fair market value of the lot, valued as if it were a fee simple lot and as if the fee title were unencumbered, and excluding onsite improvements, established by a market data approach utilizing comparable sales, less the following:
 - (i) The value of the lease, including any rights therein, if any, which accrues to the lessee;
 - (ii) That percentage of the general enhancement of the neighborhood which has been paid for or contributed directly or indirectly by the lessee;
 - (iii) The current replacement cost of that portion of existing offsite improvements, including overhead and profit at prevailing rates, which were paid for or otherwise contributed directly or indirectly by the lessee;
 - (iv) That percentage of the general enhancement of the development tract and the lot caused by the onsite improvements on the lot paid for, or contributed, directly or indirectly, by the lessee;
 - (v) That amount, not otherwise deducted herein, allocated to the lot, which was paid for or otherwise contributed, directly or indirectly by the original lessee, computed at prevailing rates for overhead and profit in developing the development tract established by existing practice in the community; and
 - (vi) That amount for fees and costs which would ordinarily be borne by lessor in transferring such interest to lessee, including, but not limited to, attorneys' or realtors' commissions, other costs of sale, and similar fee;
- provided, however, that the values established by any one of the foregoing shall not be duplicated in any one of the other provisions."

SECTION 2. Section 516-22, Hawaii Revised Statutes, is amended to read:

"Sec. 516-22 Designation of leased fee interest in all or part of development tract for acquisition. The authority may designate all or a portion of a development tract for acquisition and acquire leased fee interests in residential houselots in such development tract, through the exercise of the power of eminent domain or by purchase under the threat of eminent domain after twenty-five or more lessees or the lessees of more than fifty per cent of the residential lease lots within the development tract, whichever number is the lesser, have applied to the authority to purchase the leased fee interest in their residential leasehold lots pursuant to section 516-33 and if, after due notice and public hearing the time and place of which have been duly advertised in a newspaper of general circulation in the county in which the development tract is situated on at least three different days, the last publication being not less than five days before the date of hearing, the authority finds that the acquisition of the leased fee interest in residential houselots in all or part of the tract through exercise of the power of eminent domain or by purchase under threat of eminent domain and the disposition thereof, as provided in this part will effectuate the public purposes of this chapter.

SECTION 3. Section 516-35, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

"(a) If state moneys are used for the purchase of the owner's basis, then for a period of ten years after the purchase from the authority of the leased fee interest in a residential lot, the purchaser shall not transfer any interest in the property unless he has first notified the authority in writing of his intention to do so.

The notice shall specify the purchaser's address and upon receipt of the notice, the authority shall have the first option to purchase the land at the original purchase price of the leased fee from the authority plus ten per cent a year from the date of said original purchase up to the time of repurchase or the fair market value at the time of repurchase, whichever is lower, plus the fair market value of the improvements; provided that title to a dwelling unit and the property or lease may pass to a family member by devise or through the laws of descent, notwithstanding any qualifications set forth in section 516-33 or the rules and regulations established by the authority.

At the time of the repurchase, the fair market value of the land and the improvements shall be determined by a qualified appraiser, selected by the purchaser from a list of three appraisers provided by the authority, whose services shall be paid for by the authority; provided that the appraisal is subject to review by the authority prior to acceptance. If the purchaser disagrees with the value, he may appoint his own appraiser at his own cost and any further disagreement on the value may be resolved by negotiation or otherwise.

(b) Within sixty days after the receipt of the notice the authority shall in writing notify the purchaser at the address so specified whether it elects to exercise its option. The date of election to purchase shall constitute the date of valuation for repurchase. Nonpayment of the purchase price by the authority within ninety days from the date of election shall constitute a default and shall

void the election and terminate the right to exercise the option by the authority. If the authority refuses, or fails within the sixty-day period to reply to the offer, the purchaser may sell the fee simple interest in the property, or lease the property for a period not to exceed one year, to any person, free from any price restrictions; provided that, if the purchaser leases the property, the purchaser shall, upon expiration of the term of the lease, again comply with the requirements of subsection (a) whenever the expiration date of the term of the lease is within the ten-year period stated in subsection (a); further provided that, if the purchaser notifies the authority of his intention to sell the property, but does not sell or lease the property within two years after the date the notice was received by the authority, the purchaser must again comply with the requirements of subsection (a) if the ten-year period stated in subsection (a) has not expired."

SECTION 4. Chapter 516, Hawaii Revised Statutes, is amended by adding a new part, to be appropriately designated and to read:

"PART . MANDATORY ARBITRATION OF COMPENSATION

Sec. 516- Mandatory arbitration of compensation authorized. (a) Upon the filing of a petition by the number of lessees required by section 516-22 with the Hawaii housing authority, the authority shall request the lessor and the lessees or their designated agents to negotiate the just compensation which the lessees will pay to the lessor to acquire the lessor's interest in the development tract. If negotiations fail then the Hawaii housing authority shall direct the lessor and lessee to submit to mandatory arbitration under chapter 658 to establish an amount of just compensation which will be paid to lessor for the lessor's leased fee interest under section 516-24.

(b) This mandatory arbitration shall be in advance of and shall not constitute any part of any action in condemnation or eminent domain.

(c) The lessees shall jointly appoint one arbitrator, the lessor shall appoint one, and jointly these two arbitrators shall select a third arbitrator who shall be the chairman of the arbitration panel.

Sec. 516- Enforceability. Except as specifically provided in this part, mandatory arbitration under section 516- shall be conducted, and the award therein may be judicially confirmed, in conformity with the same procedures, as in other arbitrations under the law of this State. To the extent that this part is inconsistent with any other law, this part prevails.

Sec. 516- Timing of mandatory arbitration. Mandatory arbitration under this part shall be conducted and carried into effect before a condemnation action has been commenced.

Sec. 516- Arbitration procedure. (a) Unless the arbitration agreement provides otherwise the conduct of the arbitration shall be subject to the following rules.

(1) The locale for the arbitration is the county in which the subject property, or the major portion of that property, is located.

- (2) The law of this State relating to the criteria for ascertaining just compensation, and the elements thereof, shall be applied.
 - (3) The arbitration tribunal shall be the judge of the relevancy and materiality of the evidence offered, and conformity to the legal rules of evidence shall not be required.
 - (4) The amount of just compensation determined by the arbitration award shall be within the range of the evidence presented by the parties.
 - (5) All expenses and fees of arbitration proceedings incurred by arbitrators shall be paid one-half by lessors and one-half by lessees.
 - (6) An appeal may be taken from the arbitration award establishing just compensation to the circuit court within thirty days after the award is made and served, which appeal shall, pursuant to the Hawaii Rules of Civil Procedure, determine if the award is based upon substantial evidence, not capricious or arbitrary, and upon the other factors allowed by chapter 658.
- (b) The arbitration award shall be rendered not less than sixty days from the date that the arbitration panel is formed.

Sec. 516- Effect of arbitration award. The effect of the arbitration award and all matters relating thereto shall be *prima facie* evidence as to just compensation in any condemnation proceeding under this chapter."

SECTION 5. Section 519-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) All leases, as defined by section 516-1(5), of residential lots, as defined by section 516-1(11), existing on June 2, 1975, or entered into thereafter, which provide for reopening of the contract for renegotiation of lease rent terms shall in the case of leases after June 2, 1975, provide the following, or in the case of leases existing on June 2, 1975, shall be construed in conformity with the following:

- (1) Such renegotiations shall not be scheduled more frequently than once every fifteen years, provided the first of such reopenings shall not be scheduled prior to the fifteenth year following the initial date of the lease; and
- (2) Upon renegotiation, the lease rent payable shall not exceed the amount derived by multiplying the "owner's basis" by four per cent. For the purposes of this section, "owner's basis" means the current fair market value of the lot, excluding onsite improvements, valued as if the fee title were unencumbered; less the lessee's share, if any, of the current replacement cost of providing existing offsite improvements attributable to the land, which replacement cost shall include an overhead and profit not exceeding twenty per cent of the current replacement cost of the existing offsite improvements, or less the original lot development credit to the lessee, whichever is greater. For purposes of this section, "offsite improvements" mean all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements

are to be used in common by occupants of all lands for whose benefit the improvements have been constructed or placed; and "onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools."

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 15, 1976.)

*Edited accordingly.

TABLES SHOWING EFFECT OF ACTS

GENERAL INDEX

TABLES SHOWING EFFECT OF ACTS
EIGHTH LEGISLATURE, REGULAR SESSION OF 1976
STATE OF HAWAII

Key: Am = Amended

N = New

R = Repealed

Ren = Renumbered

— = Section number to be
assigned in HRS
Supplement

**A. SECTIONS OF HAWAII REVISED STATUTES
AFFECTED**

Section No.	Effect	Act No.	Section No.	Effect	Act No.
VOLUME I					
2-3	Am	173	46-50	Am	86
2-5.5	N	173	76-13	Am	35
2-6 to 8	Am	173	76-16	Am	9, 65, 79, 170, 182
6-1 to 15, 21 to 23	R	104	76-33	Am	34
8-1	Am	220	76-35	Am	61
8-2	Am	54	77-9	Am	179
11-11, 12, 14, 15, 17, 24, 95, 115, 119, 184	Am	106	77-12	Am	62
11-191, 192, 194, 195, 197	Am	127	78-1	Am	162
11-199	Reenacted	127	79-1	Am	51
11-200, 203	Am	127	79-20	Am	36
11-203.1	R	127	80-4	Am	145
11-204	Am	127	87-4	Am	192
11-206	R	127	88-11, 17	Am	139
11-208, 210	Am	127	88-51	Am	151
12-2, 6	Am	106	88-77	Am	191
13-4	Am	106	89-5	Am	41
15-1, 7 to 10, 13	Am	106	89-6	Am	13
19-6	Am	106	91-——	N	100
26-8	Am	165	92-——	N	212
26-9	Am	18, 165	92-2, 7, 21, 51	Am	212
26-14	Am	92	101-2	Am	7
27-21.2, 22	Am	68	102-6	Am	88
27C-1, 2	Am	187	103-—— (2 secs)	N	167
36-27, 30	Am	123	103-22	Am	172
39-——	N	119	103-22.1	N	175
39-5	Am	22	103-26	Am	107
40-——	N	174	103-28	Am	88
40-84	Am	117	103-43	Am	175
41-4	Am	241	103-48	Am	142
VOLUME 2					
41-11	Am	241	103-53.5	Am	223
46-——	N	105	107-11	N	118
			109-——	Am	158
			109-2	Am	21
			121-26	N	74
			134-—— (2 secs)	Am	74

Section No.	Effect	Act No.	Section No.	Effect	Act No.
VOLUME 3					
155-5	Am	234	248-2	Am	228, 229
163-31	Am	75	249-____ (2 secs)	N	188
171-13	Am	193	264-____	Am	235
171-17	Am	147	266-____ (4 secs)	N	163
171-19	Am	50	266-17, 20, 21	Am	221
171-36	Am	196	269-____	N	11
171-52	Am	12	269-____ (5 secs)	N	124
171-64	Am	159	269-2, 3	Am	165
183-44	Am	57	269-4	R	165
C 189 (pt II heading)	Am	70	269-5, 6, 15	Am	165
189-21 to 26	Am	70	269-16	Am	10
C 189 (pt IV heading)	Am	70	271-36	Am	122
189-41 to 46	Am	70	279E-5	Am	37
191-____	N	231	VOLUME 4		
203-____ (3 secs)	N	133	281-____	N	190
205-____	N	199	281-1	Am	87
205-1	Am	43	281-14	Am	55
205-4, 6	Am	4	281-31	Am	87
205-12, 13	Am	199	281-78	Am	3
205-35	Am	64	281-83, 91, 95, 96	Am	87
205-36	Am	57	286-51	Am	237
C 209 (pt III heading)	Am	205	286-102	Am	5, 53
209-5	Am	205	286-105	Am	5
209-26, 27	Reenacted	205	290-11	Am	91
209-28 to 31	Am	205	291-1	Am	149
209-32, 33	Reenacted	205	291-38	R	45
209-34	N	205	291C-____	N	137
210-6	Am	121	291C-1	Am	148
225-3, 23, 26	Am	63	291C-95	Am	52
235-____	N	189	291C-111	Am	238
235-1	Am	156, 208	291C-143, 145, 147	Am	148
235-2, 1	N	218, 222	291C-161	Am	44
235-4	Am	60	291C-163	Am	238
235-7	Am	156	C 292 (old)	R	45
235-9	Am	156, 203	C 292	N	45
235-10	Am	156	294-2, 5, 9	Am	80
235-55.5	Am	208	294-13	Am	80, 114
236-29	Am	200	294-21, 22	Am	80
237-1	Am	156	296-____	N	195
237-23	Am	156, 203	296-____ (pt IV)	N	46
241-1, 3	Am	203	296-60, 61 (pt IV)	Am	109
243-4	Am	188	297-9	Am	49
244-4	Am	39	302-3	Am	19, 159
246-____	N	189	304-1	Am	67
246-2	Am	228	304-17	Am	202
246-4, 7	Am	200	304-34 to 37 (pt II, B)	N	59
246-12.3	Am	171	304-61	Ren, Am	160
246-12.4, 12.5	R	171	314-17	Am	40
246-26	Am	6	317-2	N	108
246-49	Am	69	321-____ (6 secs)	N	29
246-56, 57	Am	71	321-____		

Section No.	Effect	Act No.	Section No.	Effect	Act No.
323-2	Am	59	359G-6 to 8	Am	225
323-6	N	59	359G-9.1	R	225
323D-____ (5 secs)	N	152	359G-9.2, 9.3	N	225
323D-12	Am	152, 219	359G-10	Am	225
323D-13	Am	152	359G-10.1	R	225
324-21	Am	30	359G-10.5, 11, 11.1, 12,		
325-78	Am	8	15 to 17	Am	225
328-6	Am	31, 129	359G-20	R	225
C 328A	R	84	359G-21, 22	Am	225
333E-2, 3	Am	201	359G-29	R	225
334-I, 24	Am	130	359G-30, 31	Am	225
334-33	R	130	371-____	N	14
334-51 to 58 (pt IV, old)	R	130	383-1, 30, 61, 62, 65, 94	Am	157
334-____ (4 secs, pt IV)	N	130	383-98	Am	126
334-71, 72	Am	130	386-23	Am	17
334-73	R	130	387-1	Am	89
334-74	Am	130	393-3	Am	78
334-76	R	130	393-7	Am	25
334-4	Am	27	393-13	Am	206
346-____	N	236	393-21	Am	81
346-____	N	29	396-____	N	155
346-____	N	150	396-2 to 4, 6, 8, 10 to 12	Am	95
346-____	N	83			
346-15	Am	177	VOLUME 5		
346-19	Am	26			
346-28	R	73	406-4, 5, 22	Am	200
346-29, 53	Am	73	408-____	N	96
346-58	R	150	408-____ (2 secs)	N	185
C 349 (old)	R	217	408-____ (6 secs)	N	103
C 349-1 to 10	N	217	408-2	Am	103
349-____	N	141	408-8, 11.1	Am	66
352-8 to 10, 14, 15, 26 to 28	Am	58	408-14	Am	103, 186
353-____	N	93	408-20	Am	103, 186
353-1.3, 1.4	Am	128	431-____ (2 secs)	N	219
353-61 to 63, 65 to 72	Am	92	431-3	Am	156
356-5, 20	Am	225	431-269, 561	Am	176
356-20.1	R	224	431-573	Am	180
356-29	Am	225	433-1	Am	156
359-11	Am	225	434-1	Am	156
359-51	Am	211	435C-3	Am	219
359-51 to 62 (pt III, old)	R	224	436D-5	Am	110
359-____ (19 secs, pt III)	N	224	436D-7	Am	98
359-72.1	N	225	437B-15	Am	38
359-79	Am	225	440-12, 14, 34	Am	15
359-121	Am	211	444-26	Am	144
359G-____	N	178	445-231 to 235	N	230
359G-____ (2 secs)	N	225	448E-9	Am	210
359G-1.1	N	225	449-5.5, 13	Am	101
359G-3	Am	225	453-____ (3 secs)	N	219
359G-3.1	Am	178, 225	453-2, 4 to 6, 8 to 11	Am	219
359G-4	Am	178, 225	456-2, 9, 17	Am	146
359G-4.1	N	225	460J-14	Am	98
			465-12	Am	97

Section No.	Effect	Act No.	Section No.	Effect	Act No.
467-16	Am	143	C 552 554-4, 6 571-1, 2, 11, 13, 14, 31, 32, 41, 42, 48	R Am	200 200
			VOLUME 6		
476-1, 2	Am	32	571-49	Am	85
476-5	R	32	571-50, 61, 63, 72	Am	85
476-35.1	R	45	572-5	Am	138
476-37	Am	32	573-2, 3	Am	200
478-____	N	203	577-____	N	164
480-15.1	Am	33	577-14	Am	200
C 481C-1 to 6	N	32	578-____	N	194
486E-3	Am	20	578-1	Am	194
486H-____ (4 secs)	N	213	578-2	Am	16, 194
486H-1	Am	213	578-8 to 11, 13 to 15	Am	194
487-9	Am	94	578-16	Am	194, 200
487-14	Am	111	580-71	Am	140
			580-71.5	N	140
			C 581 (old)	R	207
			C 581	N	207
VOLUME 7					
501-171, 172	Am	200	601-3, 31, 36	Am	82
507-49	Am	209	603-4	Am	56
510-23	Am	200	603-21.6, 36	Am	200
C 511	R	200	604-1	Am	135
514-____ (3 secs)	N	239	605-1	Am	76
514-10	Am	239	607-5, 18	Am	200
514-20	Am	239	607-19	R	200
514-26	Am	214	607-21	Am	200
514-46	Am	215	612-2, 3	Am	159
514-52	Am	216	621-9	Am	131
515-2, 3, 5 to 7	Am	159	621-11	R	131
516-____ (5 secs)	N	242	622-____	N	219
516-1, 22, 35	Am	242	634-23 to 25	Am	183
516-62	Am	159	C 651 (pt III, A heading)	N	136
519-2	Am	242	651-____ (3 secs, pt III, A)	N	136
521-____	N	77	651-____ (6 secs, pt III, B)	N	136
			651-____ (3 secs, pt III, C)	N	136
521-42, 43, 45, 61, 64, 69, 72	Am	90	651-62, 63	Am	136
521-76	R	77	651-65 to 67	R	136
531-1 to 10, 12 to 14, 16 to 19, 21 to 28	R	200	656-1	Am	200
531-29	Am	200	657-7.3	Am	219
531-30 to 32, 51 to 61, 71, 72	R	200	657-16, 17	R	200
			662-____	N	47
533-1, 17	Am	200	662-4	Am	219
C 536	R	200	663-1.7, 21	Am	219
C 537	R	200	663-31	Am	161
C 538	R	200	669-3	Am	183
551-1	Am	200			
551-11 to 13, 16, 17	R	200			
551-21, 22	Am	200			
551-26 to 34	R	200			
551-35	Am	200			
551-41 to 43, 46 to 48, 51 to 64, 71 to 91	R	200	PENAL CODE		
			706-____	N	181
			706-____	N	204

Section No.	Effect	Act No.	Section No.	Effect	Act No.
706-660	Am	204	731-3.2*	Am	116
706-669, 670	Am	92	801-5	R	131
710-1022	Am	99	802-7	Am	131
			831-3.1	Am	113

B. SESSION LAWS OF HAWAII AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
Laws 1937			Act 197	Am	115, 125
Act 176	R	42	Laws 1972		
Laws 1965			Acts 99, 169	Am	169
Act 119	Am	169	Laws 1973		
Laws 1967			Act 218	Am	125, 226
Act 214	Am	169	Laws 1974		
Laws 1970			Acts 165, 166, 184, 188, 206	Am	169
Acts 92, 93, 96, 104, 145	Am	169	Act 218	Am	125, 226
Act 187	Am	125	Laws 1975		
Act 209	Am	169	Act 151	Am	134
Laws 1971			Act 195	Am	125, 226
Act 68	Am	125	Act 197	Am	233
Acts 71, 108, 178, 194	Am	169			

C. SECTIONS OF HAWAIIAN HOMES COMMISSION ACT 1920 AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
204	Am	24	215	Am	72
207	Am	23	224	Am	120
213	Am	72			

*Renumbered 831-3.2

GENERAL INDEX	ACT	PAGE
ABANDONMENT		
Vehicles, removal from private property	91	144
ACCOUNTS AND ACCOUNTING		
Legislative accounts, audit	1	1
ACCOUNTING AND GENERAL SERVICES		
<i>Appropriations</i> (this index)		
Comptroller		
administration of parking on state lands	223	547
appointment of risk manager	241	762
issuance of warrants	174	324
Petty cash limitation, stadium authority exemption	117	206
School bus contracts.....	195	360
ACTIONS		
Litigation expenses, criminal defendants	131	238
ACUPUNCTURE		
Biennial registration of practitioners	98	160
Board membership, increase	110	192
ADMINISTRATIVE DIRECTOR OF COURTS		
Appropriation	233	748
ADMINISTRATIVE PROCEDURE		
Notice of hearings, contested cases	100	162
ADOPTION		
Adoption of adults	194	353
Consent	16	20
AERONAUTICS		
Developmental rates for general aviation activities	235	752
AGED PERSONS		
Excise tax credit	208	505
Executive office on aging, establishment	217	514
Family boarding and care homes, emergency placement in	29	33
Income tax exemption, eliminated	60	73
Public housing	211	508
State elderly housing	224	547
State policy for senior centers	141	257
State rent supplement increased	211	509
AGRICULTURE		
Agricultural districts, permissible uses	199	369
Agriculture coordinating committee, establishment	197	362
<i>Appropriations</i> (this index)		
Farm loans, interest rates	234	751
Marketing order inspectors	75	100
AGRICULTURE, DIRECTOR OF		
Odometers, regulation	45	53

	ACT	PAGE
ALCOHOLISM		
Prepaid health care plan, inclusion in	25	30
ALIENS		
Residency requirement for public employment.....	162	303
ANIMALS		
Reckless riding	149	265
ANNUITY CONTRACTS		
Valuation mortality standards and interest rates	176	326
ANTHURIUMS		
Appropriation	198	366
ANTITRUST		
Action by consumer protector for violation of injunction.....	3.	43
APPRAISALS		
Land and natural resources, payment of costs from special land fund	50	60
Public lands	147	261
APPRENTICES		
Electricians and plumbers, license exemption	210	508
APPROPRIATIONS		
Accounting and general services, repair of facilities, appropriation for	227	738
Agricultural commodities	198	365
Agriculture, department of, agricultural commodities	198	365
Anthuriums, research and development.....	198	366
Beds for indigent patients at Kapiolani Maternity and Gynecological Hospital, repealed	42	51
Budget and finance, department of, pension bonuses	139	256
Capital improvements	226, 233	615, 748
Claims against the State	232	745
Collective bargaining cost items	240	760
College of tropical agriculture, ornamental flowers	198	367
Criminal injuries compensation	112	193
Cut flowers, research and development	198	366
Ethics commission	1	2
Executive office on aging	141, 217	257, 514
General public improvements	226	686
Grant-in-aid to counties		
Hawaii	226	604
Kauai	226	604
Maui	226	604
Hawaiian home lands	125	213
Hawaii housing authority, repairs and facilities, appropriation for	227	738
Hawaii paroling authority	92	148
Health care under public assistance program	150	266
Health, department of		
pension bonuses	139	256
repair of facilities, appropriation for	227	738

	ACT	PAGE
Hilo Day Activity Center for Adult Retarded	168	316
Judiciary		
twelfth judge for district court of first circuit	135	248
supplemental appropriations act of 1976	233	748
Lapsing of certain funds	169	316
Law school facilities	28	32
Legislative auditor	1	2
Legislative reference bureau	1	2
Legislature	1	1
Medical torts	219	523
Ombudsman	1	2
Ornamental foliage, research and development	198	367
Papaya, research and development	198	365
Planning and economic development		
agricultural commodities	198	365
disaster revolving loan fund	205	494
Program areas		
culture and recreation	226	589, 613, 666
economic development	226	580, 605, 616
employment	226	577, 605, 620
environmental protection	226	578, 606, 635
formal education	226	584, 610, 639
government-wide support	226	593, 614, 680
health	226	579, 606, 636
individual rights	226	592, 614
public safety	226	591, 614, 679
social problems	226	583, 607, 639
transportation	226	578
transportation facilities	226	621
Project adjustment fund	226	737
Public employees' health fund, employer contribution	192	351
Public improvements		
Hawaii	226	686, 718
Honolulu	226	693, 722
Kauai	226	717, 731
Maui	226	691, 721
Public utilities commission	165	310
Repair of state properties	227	738
Revisor of statutes	1, 173	2, 322
Salary adjustments, excluded employees	240	760
State-county projects, contribution of funds	226	732
State program for the unemployed	134	246
Supplemental appropriations act of 1976	226	575
University of Hawaii		
ornamental flowers	198	367
repair of facilities, appropriation for	227	738
Waikiki improvements, extended	115	204

ARBITRATION

Residential leaseholds, compensation	242	762
--	-----	-----

ARREST

Records of arrest, expungement	116	205
--------------------------------------	-----	-----

ATTACHMENT AND EXECUTION

Exemptions	136	248
------------------	-----	-----

	ACT	PAGE
ATTORNEY GENERAL		
Actions against state militia, defense of	21	25
<i>Appropriations</i> (this index)		
Attorney for consumer advocate.....	124	211
Defense of state employees	47	58
Deputies, attorneys of public employment relations board not deemed.....	41	50
ATTORNEYS		
Fees, actions re condominiums	239	757
Medical tort fees, limitation	219	523
Prepaid legal services plan	156	282
Public employment relations board, not deemed deputy attorneys general	41	50
Qualifications for license	76	101
AUDIT		
Legislative accounts	1	1
AVIATION		
Developmental rates for general aviation activities	235	752
BANK EXAMINER		
Regulation of industrial loan companies	103	165
BANKS		
Repurchase agreements, county investment in	86	130
BICYCLES		
Motorized, regulations	148	262
BIDS AND BIDDING		
Informal bids on public contracts, limits	172	322
Out-of-state bids, addition of use tax	142	258
Public contracts	107	190
BIRDS		
Night hunting, prohibition	231	744
BOARDING HOMES		
Adult family boarding homes and care homes	29	33
BOARDS AND COMMISSIONS		
Acupuncture, membership increase	110	192
Hawaii paroling authority	92	145
Intake service center advisory board	128	227
Medical examiners, duties re medical torts and licenses	219	523
Real estate commission, adoption of horizontal property regime rules	216	513
BOATS		
Small boat harbors, amendments	221	542

	ACT	PAGE
BONDS		
Capital improvement projects	226	616
General public improvements	226	686, 732
Housing authority		
authorization to issue	225	556
interest rate	225	556
Improvement district	105	180
Interest rate, state general obligation bonds	22	26
Law school facilities, construction	28	32
Private school agent	49	59
State, signing of	119	207
Substitution for retainage of funds on public contracts.....	167	314
BOXING		
Corporations, licensing of	15	18
Partnerships, licensing of	15	18
BUDGET AND FINANCE		
<i>Appropriations</i> (this index)		
Director		
delegation of signing of bonds.....	119	207
law school facilities, issuance of bonds for	28	33
Hawaii dental education plan, administration	132	240
Public utilities commission, administration.....	165	305
Special fund assessments, campus center exemptions	123	209
BURIAL		
Indigents, public assistance	177	332
BUSES		
Driver's license	53	64
CAMPAIGN CONTRIBUTIONS AND EXPENDITURES		
General amendments	127	218
CAMPS AND CAMPING		
Seasonal youth camp staff, minimum wage exclusion.....	89	139
CANCER		
Fraudulent cures	129	228
Reports, preparation	30	35
CAPITAL IMPROVEMENT PROJECTS		
<i>Appropriations</i>		
general	226	615
judiciary	233	748
Bonds	226	615
Hawaiian home lands, authorization	125	212
CAPITAL LOAN PROGRAM		
Interest rate increase	121	208
CARE HOMES		
Cancer reports	30	35
Elderly and handicapped persons, emergency placement of	29	33

	ACT	PAGE
CHILDREN AND MINORS		
Adoption	16	20
Day care centers, redefined	26	31
Emancipation of married minors	164	304
Family court proceedings.....	85	117
Office of children and youth, establishment	207	498
CIRCUIT COURTS		
Appropriations	233	748
Second circuit, second judge	56	65
CITIZENSHIP		
Public employment requirement, amendments	162	303
CIVIL ACTIONS		
Affidavits of attempted location of defendant, contents	183	339
Office of consumer protection, by, restitution to witness	111	193
Penalties for violation of injunctive order, collection	33	43
Service of process on unknown or absent defendant	183	339
Tort action against state employee, defense of	47	57
CIVIL SERVICE		
Annual salary increment	62	74
Benefits to employees of Oahu metropolitan planning organization	37	47
Defense department positions, conversion to	48	58
Exemption		
deputy director of health	182	338
executive officer of land use commission	43	51
hearings and complaint officers of department of regulatory agencies	18	22
household employees, University of Hawaii president	9	11
lieutenant governor's office	170	318
marketing order inspectors	75	100
students and others under temporary federal programs	79	102
Initial appointments	179	336
Longevity pay	62	74
Reallocation, effective date	35	45
Stadium authority employees	158	297
Transfers, definition	61	74
CLAIMS AGAINST STATE		
Appropriations	232	745
COLLECTIVE BARGAINING		
<i>Public Employment</i> (this index)		
COMMERCIAL FISHING		
Fishing vessel loan programs.....	70	84
COMMUNITY COLLEGES		
Scholarships.....	67	81
COMMUNITY DEVELOPMENT AUTHORITY		
Establishment	153	270

	ACT	PAGE
COMPARATIVE NEGLIGENCE		
Jury instruction	161	302
Recovery when more than one defendant	161	302
COMPENSATION FOR CRIMINAL INJURIES		
Appropriations	112	193
CONDEMNATION		
Excess property, disposal	7	9
CONDOMINIUMS		
<i>Horizontal Property Regimes</i> (this index)		
CONSERVATION		
Fishponds, reinforcement	57	66
CONSTITUTIONAL CONVENTION		
Submission of question	2	3
CONSTRUCTION		
Advisory council for housing and construction industry, establishment	166	310
CONSUMER ADVOCATE		
Utility services	124	211
CONSUMER PROTECTION		
Cancer, fraudulent cures	129	228
Complaints officer, appointment	18	22
Consumer's waiver of motor vehicle repair estimate	38	47
Contractor's recovery fund	144	259
Deceptive trade practices	32	40
Door-to-door sales	32	39
Imitation food, notice to consumer	31	35
Odometers, regulation	45	53
Office of		
action for violation of injunctive order	33	43
director, subpoena power in investigation	94	149
prosecution of violation	32	38
resolution of landlord-tenant disputes	77	101
Public utilities, consumer advocate	124	210
Real estate recovery fund	143	258
Restitution to persons testifying	111	193
CONTRACTORS RECOVERY FUND		
Damages, court costs and attorney fees included	144	259
CONTRACTS		
<i>Public Contracts</i> (this index)		
CONVEYANCES, BUREAU OF		
Recording of condominium parking stall transfers	239	757

	ACT	PAGE
CORPORATIONS		
Boxing license	15	18
CORRECTIONS		
Facilities		
intake service center	128	227
intake service center advisory board	128	227
revolving fund for stores	93	149
youth correctional facility	58	68
Hawaii paroling authority	92	145
Promoting prison contraband, amendments	99	161
Transfer for psychiatric treatment, notice and hearing	130	229
CORRESPONDENCE SCHOOLS		
Agent's license and bond	49	59
COUNCIL OF HOUSING AND CONSTRUCTION INDUSTRY		
Establishment	166	310
COUNTIES		
Agriculture districts, restrictions on permitting uses in	199	369
Applicability of sunshine law	212	509
Community development authority, conveyance of land to	153	270
Elderly persons' housing	224	547
Hawaii, grant-in-aid to	226	604
Historic preservation by	104	172
Housing projects, approval of	225	556
Improvement district ordinances, authorization	105	180
Initial appointments in civil service, requirements	179	336
Kauai, grant-in-aid to	226	604
Maui, grant-in-aid to	226	604
Motor vehicle registration, staggered basis	237	754
Offices of elderly affairs	217	514
Ordinances restricting motorized bicycles authorized	148	262
Parking violations, additional penalty prohibited	238	755
Proposed highway projects, hearing required	163	304
Real property tax rate, change	229	740
Shoreline setback areas, approval of facilities in	64	77
Short term investment, bank repurchase agreements	86	130
State-county jointly funded projects, release of state funds on	226	732
State-funded capital improvement projects, acknowledgment	226	732
Subarea health planning councils, establishment	152	268
Unattended vehicle on private property, regulation	91	144
COUNTY CLERKS		
Employees, collective bargaining status	13	17
COURTS		
Deferred acceptance of guilty plea	154	280
Deputy administrative director, appointment	82	110
CREDIT LIFE INSURANCE		
Maximum allowed	180	336
CRIMINAL INJURIES COMPENSATION		
Appropriations	112	193

	ACT	PAGE
CRIMINAL LAW		
Arrest records, expungement	116	205
Deferred acceptance of guilty plea	154	280
Indigent defendants, litigation expenses	131	238
<i>Penal Code</i> (this index)		
CULTURAL PRESERVATION		
<i>Historic Preservation</i> (this index)		
CUT FLOWERS		
Appropriation	198	368
DAMAGES		
Contractor's recovery fund	144	259
Real estate recovery fund, recovery from	143	258
DAY CARE CENTERS		
Family care, redefined	26	31
DEFENSE		
<i>Appropriations</i> (this index)		
Department of, conversion of certain positions to civil service	48	58
DEFERRED ACCEPTANCE OF GUILTY PLEA		
Authorized	154	280
DENTISTRY		
Hawaii dental education plan	132	239
DEVELOPMENTAL DISABILITIES		
Program, amendments	201	485
DISABLED PERSONS		
Discrimination prohibited	159	299
DISASTER RELIEF		
Amendments	205	494
Personal loans authorized	205	496
DISCRIMINATION		
Handicapped persons, prohibited against	159	299
Sex, public school students	46	57
University of Hawaii, prohibited	19	23
DISTRICT COURTS		
Account clerk, additional appropriation for fifth circuit	233	748
Appropriations	233	748
Concurrent jurisdiction with family court, certain cases	85	117
First circuit, twelfth judge	135	247
DISTRICTS		
Land use, hearing procedure	4	4

	ACT	PAGE
DIVORCE		
Prior separation not bar to	140	256
DRIVERS		
Reckless driving	149	265
DRIVERS LICENSES		
Buses	53	64
<i>Motor Vehicles</i> (this index)		
DRUGS		
Drug abuse benefit, prepaid health care	25	29
EASEMENTS		
Perpetual, public lands	193	352
EDUCATION		
<i>Appropriations</i> (this index)		
Department of		
private school agent's license and bond	49	59
school bus contracts, extension	195	360
Hawaii dental education plan, establishment	132	239
Labor education and research center	202	487
<i>Schools</i> (this index)		
Sex bias	46	57
ELECTIONS		
Campaign contributions and expenditures, general		
amendments	127	218
Constitutional convention, convening of	2	3
General amendments	106	180
Liquor, sale on election days	3	3
ELECTRIC GUNS		
Restrictions	74	100
ELECTRICIANS AND PLUMBERS		
Unlicensed activity, clarified	210	508
ELECTRICITY		
High-voltage transmission lines, installation	11	16
EMBEZZLEMENT		
Industrial loan companies	185	342
EMERGENCIES		
Expenditures for	226	737
EMINENT DOMAIN		
Excess property, disposal	7	9
EMPLOYMENT		
Manpower planning administrator	14	18
State program for the unemployed	134	245

	ACT	PAGE
EMPLOYMENT SECURITY		
<i>Unemployment Compensation (this index)</i>		
ENDOWMENT CONTRACTS		
Valuation mortality standards and interest rates	176	326
ENERGY		
Alternate energy improvements, tax exemptions	189	348
ENVIRONMENT		
Solid wastes		
guidelines	27	31
ownership	184	341
ESCROW DEPOSITORYES		
Bonds and insurance, cancellation, amendment	101	163
Net capital, clarification	101	162
ETHICS COMMISSION		
Appropriation	1	2
EVIDENCE		
Family court, effect on child	85	117
EXECUTION		
<i>Attachment and Execution (this index)</i>		
EXECUTIVE OFFICE ON AGING		
Establishment	217	514
State policy for senior centers	141	257
FAMILY COURT		
Adoption of adults	194	353
Appropriations	233	748
General amendments	85	117
FARMS		
Loans, interest rates	234	751
FEES		
Notaries public	146	260
Psychologists, examination	97	160
Small boat harbors	221	542
FELONS		
Qualification for liquor licenses	113	202
FINANCE COMPANIES		
Industrial loan companies	103	165
FINANCIAL AID		
Students, enrolled at two campuses	67	81

	ACT	PAGE
FIREARMS		
Imprisonment for use in felony	204	493
FISH AND GAME		
Fishing vessel loan programs.....	70	85
Fishponds, reinforcement of	57	66
FLOWERS AND FOLIAGE		
Anthuriums, appropriation	198	368
Cut flowers, appropriation	198	368
Ornamental foliage, appropriation	198	369
FOOD, DRUGS AND COSMETICS		
Imitation food, notice to consumer	31	35
FORGERIES		
Historical objects	104	177
FRANCHISES		
Gasoline dealers	213	511
FRAUDS		
Cancer cures	129	228
FUELS		
Liquid fuels, monthly statements by distributors	20	24
Taxes, temporary rate increase	188	347
FUMIGATOR		
License, biennial renewal	98	161
FUNDS		
Campus center special fund, exemptions	123	209
Disaster revolving loan fund	205	494
Lapse of certain appropriations	169	316
Patients' compensation fund, establishment	219	530
Revolving fund for correctional facility stores	93	149
GAME		
Night hunting, prohibition.....	231	744
GARBAGE		
Ownership of solid waste	184	341
GASOLINE		
Monthly statements of distributors	20	24
GASOLINE DEALERS		
Franchise	213	511
GENERAL EXCISE TAX		
Small business investment companies, exemption	203	490

	ACT	PAGE
GENERAL PUBLIC IMPROVEMENTS		
Appropriations	226	686, 732
Bonds	226	686, 732
GOVERNOR		
Advisory council for housing and construction industry, appointment	166	310
Agriculture coordinating committee, establishment	197	362
<i>Appropriations</i> (this index)		
Capital improvement projects, supplemental allotments	226	737
County hospital management advisory committee members, appointment	68	83
Executive office on aging, establishment	217	514
Emergencies, expenditure of funds for	226	737
Office of children and youth, establishment	207	498
Public utilities commission, appointment	165	305
State historic preservation officer, appointment	104	174
State information service and youth affairs office, reorganization	187	345
Supplemental appropriations act, correction of errors in	226	738
Unemployment, expenditure of funds for	226	737
GROUP THERAPY		
Public assistance payments	236	753
GUNS		
Electric guns	74	100
HANDICAPPED PERSONS		
Discrimination prohibited	159	299
Public contract preference	175	325
HARBORS		
Small boat program, amendments	221	542
HAWAIIAN HOME LANDS		
<i>Appropriations</i> (this index)		
Available lands not required for leasing, management of	24	27
Capital improvement projects, authorization	125	213
Hawaiian home general home loan fund	72	89
Homesites, designation of location	23	26
Loan funds	72	89
Revolving funds	72	89
Salary of sanitation expert	120	207
Statewide replacement loan fund	72	89
HAWAII ASSOCIATION OF INDEPENDENT SCHOOLS		
Student conference committee, included in	40	49
HAWAII COUNTY		
State grant-in-aid, real property tax adjustment	226	604
HAWAII DENTAL EDUCATION PLAN		
Establishment	132	239

	ACT	PAGE
HAWAII FOOD, DRUG AND COSMETIC ACT		
Imitation food, notice to consumer	31	37
HAWAII PAROLING AUTHORITY		
Organization of	92	145
HAWAII PRODUCTS		
Public contracts, preference for handicapped persons.....	175	325
HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD		
Attorneys not deemed deputy attorneys general.....	41	50
HAWAII TUMOR REGISTRY		
Cancer reports, filing with	30	35
HEALTH		
<i>Appropriations</i> (this index)		
Cancer		
fraudulent cures.....	129	228
preparation of reports	30	35
County hospital management advisory committees	68	83
Department of		
additional deputy director authorized	182	338
care homes, emergency placement in	29	33
council on developmental disabilities,		
administration	201	485
Leahi Hospital, transfer	59	70
safe drinking water systems	84	112
Director, prepaid health care, determination of wages	78	102
Group psychotherapy payments for public assistance		
recipients	236	753
Hilo Day Activity Center for Adult Retarded,		
transfer to State.....	168	314
Medicaid program, issuance of warrants to vendors	174	324
Payments under medicaid	150	265
<i>Prepaid Health Care</i> (this index)		
Public employees' health fund, state and county		
contributions increased	192	351
Smoking, prohibition in public places	108	190
State health planning and development agency,		
functions, amendments	219	523
HEALTH PLANNING AND RESOURCES DEVELOPMENT		
Subarea health planning councils, establishment	152	268
HEARINGS		
Highway projects	163	304
Land use	4	4
Notice, contested cases	100	162
Public utilities commission	10	14
HIGHWAYS		
Public hearing on proposed projects, required	163	304
Vehicle loads, spilling	137	252

	ACT	PAGE
HILO DAY ACTIVITY CENTER FOR THE ADULT RETARDED		
State assumption of ownership	168	314
HISTORIC PRESERVATION		
Monuments and memorials designated	104	177
Program, establishment	104	172
HOLIDAYS		
Saturday holidays, observance of	54	65
Veterans' Day	220	541
HOMES		
Real property taxes.....	6	8
HORIZONTAL PROPERTY REGIMES		
Amendments	239	757
Insurance, requirements	214	512
Penalty for violations	215	513
Supplemental rules, adoption	216	513
HOSPITALS		
Admission to psychiatric facilities	130	230
Cancer reports	30	35
County hospitals, management	68	83
Kapiolani Hospital, repeal of appropriation for free beds	42	51
Kula Hospital, name change	8	10
Leahi Hospital, transfer	59	70
Medical torts	219	523
Puunene Hospital, membership service credit.....	151	267
HOTELS		
Intoxicating liquor license	87	134
Pilot project on reservations, establishment	102	163
HOUSING		
Advisory council for housing and construction industry, establishment	166	310
Elderly person housing	224	547
redefined	211	508
rent supplement	211	509
Establishment of community development authority.....	153	270
Housing authority amendments	225	556
bond issues authorized	225	556
dwelling units lease to nonprofit organization	225	556
restrictions on transfer	225	556
restrictions on use	225	556
housing design research	225	556
housing information system.....	225	556
loan commitment fees, authority to charge	225	556
loans for renovation of dwelling units	178	332
residential leaseholds, amendments	242	762
Housing projects amendments	225	556

	ACT	PAGE
definitions	225	556
exempt from statutes	225	556
exempt from taxes	225	556
loans, interest on	225	556
Information system, establishment of	225	556
HUNTING		
Night hunting, prohibition	231	744
HUSBAND AND WIFE		
Divorce, prior separation not bar to	140	256
Separation, grounds for	140	256
IMPORTATION		
Intoxicating beverage for household use	190	349
IMPRISONMENT		
Firearm felonies	204	493
Repeat offenders	181	338
IMPROVEMENT DISTRICTS		
County ordinances authorized	105	179
INCOME TAX		
Credit on solar energy device	189	348
Excise tax credit	208	505
Federal deductions		
contributions to retirement plans	222	546
expenses for household and dependent care	218	522
“Kaiser-exemption”, elimination	60	73
Small business investment companies, exemption	203	489
Without regard to source in State, defined	208	505
INDIGENTS		
Criminal defendants, litigation expenses	131	238
Mortuary and cemetery services	177	332
INDUSTRIAL LOAN COMPANIES		
Audited statements, requirement	96	159
Embezzlement or illegal compensation, penalties	185	342
Increase in security reserve	103	165
Licenses	66	80
Limitations on loans	103	165
Regulations to protect depositors and control		
affiliate transactions	103	165
Sale of loans and contracts	186	343
INDUSTRIAL SAFETY		
First aid by employees, limited liability	155	281
INFORMATION		
Housing system	225	556
INJUNCTIONS		
Penalties for violation, collection	33	43

	ACT	PAGE
INSTALLMENT SALES		
Door-to-door	32	39
INSURANCE		
Credit life insurance, maximum allowed	180	336
Horizontal property regimes, requirements	214	512
Insurance commissioner, administration of patients' compensation fund	219	530
Insurance fund of State, appointment of risk manager	241	762
Interest rates, annuity and endowment contracts	176	326
Medical malpractice, amendments	219	533
No-fault amendments	80	105
services of advisory organizations	114	204
Valuation mortality standards	176	326
INTEREST		
Capital loan program, increase	121	208
General obligation bonds of State	22	25
Small business investment companies, exemption from usury law	203	489
INTERIM TOURISM POLICY ACT		
Establishment	133	241
INTERSTATE AGREEMENTS		
Hawaii dental education plan	132	240
INTOXICATING LIQUOR		
Commission, destruction of records	55	65
Foreclosure of licensed premises, delay of renewal fee	87	135
Hotel license	87	134
Importation for household use	190	349
License, qualification of convicted persons	113	203
Revocation of license, time for hearing	87	134
Sale, election days	3	3
Taxation, exemption for okolehao and fruit wine	39	48
INVESTIGATORS		
Department of social services and housing, appointment by	83	111
INVESTMENTS		
County, bank repurchase agreements	86	130
JUDGES		
District court, first circuit, twelfth judge	135	247
Second judge for second circuit	56	65
JUDICIARY		
Capital improvement projects	233	748
Deputy administrative director, appointment	82	110
Sheriff, second deputy, appointment	82	110
Supplemental appropriations act of 1976	233	748

	ACT	PAGE
JURIES		
Comparative negligence instructions	161	302
KAKAAKO		
Community development district, establishment	153	277
KAPIOLANI MATERNITY AND GYNECOLOGICAL HOSPITAL		
Free beds for indigents, repealed	42	51
KAUAI COUNTY		
State-grant-in-aid, real property tax adjustment	226	604
KULA HOSPITAL		
Name, change	8	10
LABOR AND EMPLOYMENT		
Center for labor education and research, establishment	202	487
Manpower planning administrator	14	18
LABOR AND INDUSTRIAL RELATIONS		
<i>Appropriations</i> (this index)		
Employment security, substitute referees, salary	126	218
Manpower planning administrator	14	18
Minimum wages	89	137
Occupational safety and health amendments	95	150
<i>Prepaid Health Care</i> (this index)		
State program for the unemployed	134	245
Unemployment compensation	157	290
Workers' compensation	17	22
LAND AND NATURAL RESOURCES		
<i>Appropriations</i> (this index)		
Board		
grant of perpetual easements	193	352
public lands, leases	196	360
Fishponds, reinforcement of	57	66
Historic preservation program, establishment	104	172
<i>Public Lands</i> (this index)		
Special land and development fund		
payment of appraisals	50	60
use for maintenance of land	50	60
LANDLORD AND TENANT		
Disputes, resolution	77	101
Residential code, amendments	90	139
Twelfth judge, district court of first circuit	135	247
LAND USE		
Agricultural districts, permissible uses	199	369
Commission		
executive officer, appointment and exemption	43	51
view of land	4	4
Hearing, procedure	4	4
Shoreline setback	64	76

	ACT	PAGE
LAW CLERKS		
Supreme court, additional	65	78
LEAHI HOSPITAL		
Transfer to department of health	59	70
LEASES		
Public lands	196	360
Residential leaseholds, general amendments	242	762
LEAVES OF ABSENCE		
Sabbatical leave	34	44
Vacation, exclusion of certain public employees	51	61
LEGAL SERVICES		
Prepaid plans	156	282
LEGISLATIVE AUDITOR		
Appropriation	1	2
LEGISLATIVE REFERENCE BUREAU		
Appropriation	1	2
LEGISLATURE		
Accounts, audit	1	1
Appropriation	1	1
Out-of-state travel, allowances	1	1
LICENSES		
Acupuncture practitioners, registration	98	160
Attorneys at law	76	101
<i>Boxing</i> (this index)		
<i>Drivers Licenses</i> (this index)		
Electricians and plumbers, unlicensed activity clarified	210	508
Industrial loan companies	66	80
Liquor hotel	87	134
qualification of felon	113	203
Marriage, fee increase	138	253
Pest control operators, renewal	98	161
Physicians and surgeons, requirements and limitations	219	523
Private school agent	49	59
Scrap dealers	230	743
LIENS		
Mechanic's and materialman's, exceptions	209	506
Real property tax	71	88
LIEUTENANT GOVERNOR, OFFICE OF		
<i>Appropriations</i> (this index)		
Civil service exempt positions, increase	170	318
LIQUID FUELS		
Monthly statements of distributors	20	24

	ACT	PAGE
LIQUOR		
<i>Intoxicating Liquor</i> (this index)		
LITTERING		
Spilling of loads from vehicles	137	252
LOANS		
Capital loans, interest rate increase	121	208
Disaster relief.....	205	494
Farm loans, interest rates.....	234	751
Housing authority, renovation of dwelling units	178	332
Housing project, interest on	225	556
<i>Industrial Loan Companies</i> (this index)	196	360
Public lands, leases		
MALPRACTICE		
Medical.....	219	523
MAMMALS		
Night hunting, prohibition.....	231	744
MANPOWER PLANNING ADMINISTRATOR		
Office of	14	18
MARKETING ORDERS		
Inspectors, exemption from civil service	75	100
MARRIAGE		
Emancipation of minors.....	164	304
License fees	138	253
MATERNITY		
Beds for indigents at Kapiolani Hospital, repealed	42	51
MAUI COUNTY		
State grant-in-aid, real property tax adjustment.....	226	604
MECHANICS		
Repair estimate, waiver	38	58
MECHANIC'S AND MATERIALMAN'S LIENS		
Unlicensed contractors.....	209	506
MEDICAID		
Payments under	150	265
MEDICAL CLAIM CONCILIATION PANEL		
Establishment	219	526
MEDICAL MALPRACTICE		
Insurance, amendments	219	533
Torts	219	523

	ACT	PAGE
MEDICAL RECORDS		
Availability	219	539
MEETINGS		
Public agencies	212	509
MENTAL HEALTH		
Hospitalization procedure	130	229
MENTALLY RETARDED		
Developmental disabilities program, amendments	201	485
Hilo Day Activity Center for Adult Retarded, state assumption of ownership	168	314
METROPOLITAN PLANNING ORGANIZATION		
Employees, public employee benefits for	37	47
MILITARY SERVICE		
Pay to public employees during, six month requirement.....	36	46
MILK AND MILK PRODUCTS		
Imitation products, notice to consumer	31	37
MINIMUM WAGE LAW		
Exclusions	89	137
MINORS		
Emancipation by marriage.....	164	304
Industrial loan companies, issuance of certificates	103	165
MONUMENTS		
Designation	104	177
MOPED		
Regulations	148	262
MORBIDITY AND MORTALITY INFORMATION		
Cancer	30	35
MORTGAGES		
Foreclosure of premises of liquor licensee	87	136
Housing authority guarantee by	225	556
units, on	225	556
MOTOR CARRIERS		
Safety identification decals, fee	122	209
Safety inspection, fee increase	122	209
MOTORCYCLES		
Bicycle not classified as	148	262

	ACT	PAGE
MOTOR VEHICLES		
Bicycle not classified as	148	262
Drivers licenses		
categories, buses	53	63
exemptions	5	7
Engine displacement tax	188	347
Motor Vehicle Accident Reparations Act, amendments	80	105
No-fault insurance		
amendments	80	105
services of advisory organizations	114	204
Odometers, regulation	45	53
Parking tickets, penal codé violation	238	755
Reckless driving	149	265
Registration		
fee	188	347
staggered system of renewal	237	754
Repairs, customer's waiver of estimate	38	47
School bus signs, prohibition on use of	52	63
Spilling loads on highways	137	252
Towing rates, removal from private property	91	144
Unattended on private property, removal	91	144
MUSEUMS		
State transfer of specimens and objects to	104	174
NATIONAL GUARD		
Counsel to defend actions against	21	25
NEGLIGENCE		
Comparative	161	302
NO-FAULT INSURANCE		
Amendments	80	105
Insurance advisory organizations, use of services of	114	204
NONPROFIT ORGANIZATIONS		
Housing authority, lease of units	225	556
NOTARIES PUBLIC		
Qualifications, fees	146	260
NOTICE		
Hearings of regulatory agencies	100	162
NURSING HOMES		
Cancer reports	30	35
Medical torts	219	523
OAHU METROPOLITAN PLANNING ORGANIZATION		
Employees, public employee benefits for	37	47
OCCUPATIONAL SAFETY AND HEALTH		
Amendments	95	150
Limited liability for employees rendering first aid	155	281

	ACT	PAGE
ODOMETERS		
Motor vehicles, regulation	45	53
OFFICE OF INFORMATION AND YOUTH AFFAIRS		
Transfer of youth affairs functions	187	345
OKOLEHAO		
Liquor tax exemption	39	48
OMBUDSMAN		
Appropriation	1	2
ORNAMENTAL FOLIAGE		
Appropriation	198	369
PAPAYA		
Appropriation	198	367
PARENT AND CHILD		
Consent to adoption	16	20
Termination of parental rights, amendments	85	117
PARKING CONTROL		
Penal code violation	238	755
Public employee parking	223	547
PAROLES AND PARDONS, BOARD OF		
Reconstitution of	92	145
PARTNERSHIPS		
Boxing license	15	18
PATIENTS' COMPENSATION FUND		
Establishment	219	530
PENAL CODE		
Certain repeat offender, mandatory imprisonment	181	338
Imprisonment for use of firearm in felony	204	493
Promoting prison contraband, amendments	99	161
PENAL SUMMONS		
Traffic violations, assessment for issuance	44	52
PENALTIES		
Traffic violations, assessment for issuance of penal summons	44	52
PENSION		
Bonus payments	139	254
PERMITS		
Small boat harbors	221	542

	ACT	PAGE
PERSONAL PROPERTY		
Exemption from attachment and execution	136	248
PERSONNEL SERVICES, DEPARTMENT OF		
<i>Appropriations</i> (this index)		
Director, reallocations		
rules for	35	45
when effective	35	45
Initial appointments, report of and steps for.....	179	336
PEST CONTROL OPERATORS		
License, biennial renewal	98	161
PETTY CASH FUND		
Stadium authority.....	117	206
PHYSICIANS AND SURGEONS		
Medical torts	219	523
PLANNING AND ECONOMIC DEVELOPMENT		
<i>Appropriations</i> (this index)		
Community development authority	153	270
Department of		
capital loan, interest rate	121	208
pilot project on hotel reservations	102	163
Fishing vessel loan programs.....	70	85
Interim tourist policy act, establishment	133	241
Policy planning	63	76
PLUMBERS		
Unlicensed activity, clarified	210	508
POLICE		
Parking violations, enforcement	238	755
Service-connected total disability retirement.....	191	350
POLICY PLANNING		
Amendments	63	76
POLLUTION		
Safe drinking water systems	84	112
PREPAID HEALTH CARE		
Recovery of premium by employer.....	206	498
Substance abuse benefits	25	28
Wages, determination of	78	102
Waiver of benefits by employee.....	81	109
PREPAID LEGAL SERVICES		
Regulation	156	282
PRISONERS AND CONVICTS		
Qualification for liquor licenses	113	203

PRISONS AND JAILS*Corrections (this index)***PRIVATE PROPERTY**

Historic, notice of proposed alteration	104	175
---	-----	-----

PRIVATE SCHOOLS

Agent's license and bond	49	59
Student conference committee, inclusion in	40	49

PROBATE CODE

Adoption	200	372
----------------	-----	-----

PROMOTING PRISON CONTRABAND

Amendments	99	161
------------------	----	-----

PSYCHIATRIC FACILITY

Admission and transfer	130	230
------------------------------	-----	-----

PSYCHOLOGISTS

Examination fee, increase	97	160
---------------------------------	----	-----

PUBLIC AGENCIES

Sunshine law amendments	212	509
-------------------------------	-----	-----

PUBLIC ASSISTANCE

Determination of needs	73	98
Group psychotherapy payments	236	753
Mortuary and cemetery services	177	332

PUBLIC BROADCASTING AUTHORITY

Compensation of employees	160	301
---------------------------------	-----	-----

PUBLIC BUILDINGS

Smoking prohibition	108	190
---------------------------	-----	-----

PUBLIC CONTRACTS

Advertisement for bids	107	190
Bids, amount of deposit	88	136
Handicapped persons, preference	175	325
Informal bids, increase of limit	172	322
Out-of-state bids, addition of use tax	142	258
Retainage of funds	167	314
School bus contracts	195	360

PUBLIC EMPLOYEES' HEALTH FUND

Employer contribution, increase	192	351
---------------------------------------	-----	-----

PUBLIC EMPLOYMENT

Appropriations, increment and longevity pay increases	233	748
<i>Civil Service (this index)</i>		
Collective bargaining		
cost items, appropriation	240	760
employees of county clerk's office	13	17

	ACT	PAGE
Defense department, conversion to civil service	48	58
Defense of state employees	47	57
Employees excluded from civil service, clarified.....	79	102
Oahu metropolitan planning organization, public employee benefits to employees	37	47
Overtime compensation	145	259
Parking control	223	547
Pay during military service, six month requirement.....	36	46
Residence and citizenship requirements	162	303
Sabbatical leave.....	34	44
Salary increase and adjustment, appropriation.....	240	760
Saturday holidays, observance of	54	65
Vacations, persons excluded from	51	61
 PUBLIC LANDS		
Appraisal	147	261
Concessions, amount of deposit	88	136
Grant of perpetual easements	193	352
Historic, state control.....	104	172
Leases	196	360
Remnant, disposition	12	16
Special land and development fund payment of appraisal from.....	50	60
use for maintenance of land.....	50	60
 PUBLIC PROPERTY		
Appropriation for repair and maintenance	227	738
Parking, administration by comptroller.....	223	547
 PUBLIC RECORDS		
Copies, cost	212	510
Liquor commission, destruction of.....	55	65
 PUBLIC UTILITIES		
Consumer advocate, establishment.....	124	210
High-voltage transmission lines, installation.....	11	16
Rates, determination, procedure.....	10	13
 PUBLIC UTILITIES COMMISSION		
Reconstituted.....	165	305
 PUUNENE HOSPITAL		
Employees, membership service credit	151	267
 RACE		
University of Hawaii discrimination prohibited	19	23
 REAL ESTATE BROKERS AND SALESMEN		
Escrow depositories	101	162
 REAL ESTATE COMMISSION		
Horizontal property regimes, adoption of supplementary rules	216	513

	ACT	PAGE
REAL ESTATE RECOVERY FUND		
Coverage	143	258
REAL PROPERTY		
Dedication for residential use	171	320
Exemption from attachment and execution	136	248
Horizontal property regimes		
amendments	239	757
insurance	214	512
penalty for violations	215	513
Leases, amendments	242	762
<i>Public Lands</i> (this index)		
Tax exemptions for alternate energy improvements.....	189	348
REAL PROPERTY TAX		
Adjustment, grants-in-aid to counties for	226	604
Base, establishment	228	739
Delinquency penalty	69	84
Exemption for alternate energy improvements	189	348
Home exemption	6	8
Liens, foreclosure	71	88
Rates, procedure for changing	229	740
Residential dedication, amendments	171	320
RECREATION		
Sex bias	46	57
REFUNDS		
Taxes, legislative relief	232	745
REFUSE		
Ownership of solid waste	184	341
REGULATORY AGENCIES, DEPARTMENT OF		
<i>Appropriations</i> (this index)		
Complaints officer, appointment	18	22
Director		
consumer advocate before public utilities commission	124	210
duties re medical torts	219	523
Hearings officer, exempt employment, powers	18	22
Liquid fuel distributors, disclosures by	20	24
Public utilities division, establishment	124	210
RELIGION		
University of Hawaii discrimination prohibited	19	23
RESEARCH		
Housing design	225	556
RESIDENCY		
Public employment requirement	162	303
RESIDENTIAL LEASEHOLDS		
General amendments	242	762

	ACT	PAGE
RESTAURANTS		
Imitation food, notice to consumer	31	37
RESTITUTION		
Persons testifying in consumer protection cases	111	193
RETAIL INSTALLMENT SALES		
Door-to-door	32	39
RETIREMENT SYSTEMS		
Bonus payments	139	254
Police officers, service-connected total disability	191	350
Puunene and Waimea Hospital employees	151	267
REVISOR OF STATUTES		
Appropriation	1,173	2,324
Publication of replacement volumes	173	322
SABBATICAL LEAVE		
Public employees	34	44
SAFETY INSPECTION		
Motor carriers, fee increase	122	209
SALARIES		
Prepaid health care, definition	78	102
Public employee increments	62	74
SALES		
Door-to-door	32	39
Historical objects, illegal	104	177
SCHOOLS		
Buses		
extension of contracts	195	360
prohibition against use of school bus sign	52	63
Private, agent's license and bond	49	59
Secondary school student conference, inclusion		
of private school students	40	49
Sex bias	46	57
Teachers, retention of probation status	109	191
SCRAP DEALERS		
Regulation	230	743
SECONDHAND DEALERS		
Scrap dealers	230	743
SECURITIES		
Industrial loan companies, limitations	103	165
SENTENCE		
Imprisonment for use of firearms	204	493
Repeat offenders	181	338

	ACT	PAGE
SEPARATION		
Grounds for	140	256
No bar to divorce	140	256
SERVICE OF PROCESS		
Unknown or absent defendant	183	339
SEX		
Discrimination, educational or recreational programs	46	57
SHERIFF		
Second deputy, appointment	82	110
SHORELINES		
Setback areas, approval of facilities in	64	76
SIGNS		
Prohibition on use of "SCHOOL BUS"	52	63
SMALL BUSINESS INVESTMENT COMPANIES		
Usury and tax exemptions	203	489
SMALL CLAIMS		
Appropriation, handbook publication	233	748
Twelfth judge of district court of first circuit	135	247
SMOKING		
Prohibition in public places	108	190
SOCIAL SERVICES		
Adult family boarding homes, emergency placement in	29	33
<i>Appropriations</i> (this index)		
Day care centers, redefined	26	31
Health care payments, appropriations	150	265
Investigators, appointment and duties	83	111
Payment under medicaid, vouchering	174	324
<i>Public Assistance</i> (this index)		
Youth correctional facility, amendments extending jurisdiction to adults	58	68
SOLAR ENERGY		
Tax credit on purchase of device	189	348
STADIUMS		
Chief security officer, powers	118	206
Stadium authority		
employees, status of	158	297
petty cash limitation, exemption	117	206
STATE INSURANCE ADMINISTRATION		
Risk manager, appointment	241	762
STATE MILITIA		
Counsel to defend actions against	21	25

	ACT	PAGE
STATE PLAN		
Status reports	63	75
STATE TORT LIABILITY ACT		
Defense of state employees	47	57
STATEWIDE INFORMATION SERVICE		
Transfer of youth affairs functions	187	345
STATUTE REVISION		
Publication of replacement volumes.....	173	322
STUDENTS		
Exemption from civil service	79	102
Scholarships, enrollment at two campuses	67	81
SUBAREA HEALTH PLANNING COUNCILS		
Establishment	152	268
SUBPOENA		
Office of consumer protection, investigations	94	149
SUBSTANCE ABUSE		
Prepaid health care plan, inclusion in	25	28
“SUNSHINE” LAW		
Amendments	212	509
SUPPLEMENTAL APPROPRIATIONS ACT OF 1976		
Generally	226	575
SUPREME COURT		
Appropriations	233	748
Chief justice, transfer of funds, amendment	233	748
Law clerks, additional	65	78
SURVEYORS		
Marine, inspections	221	542
TAXATION		
<i>Appropriations</i> (this index)		
Fuel taxes, temporary rate increase	188	347
Housing projects exempt, when	225	556
<i>Income Tax</i> (this index)		
Liquor exemption, okolehao and fruit wine	39	48
Motor vehicle engine displacement tax	188	347
Prepaid legal services exemption	156	282
<i>Real Property Tax</i> (this index)		
Refund claims, legislative relief	232	745
Small business investment companies	203	489
TAX LIENS		
Real property, foreclosure	71	88

	ACT	PAGE
TEACHERS		
Public schools, probationary employment	109	191
TELEVISION AND RADIO		
Public broadcasting authority, compensation of employees	160	301
TOBACCO		
Smoking in public places, prohibition	108	190
TORTS		
Comparative negligence	161	302
Medical torts	219	523
State employees, defense of	47	57
TOURISM		
Hotel reservation pilot project	102	163
Interim tourism policy act, establishment	133	241
TRAFFIC REGULATIONS		
Issuance of penal summons, assessment	44	52
Motorized bicycle regulations	148	262
Parking tickets, penal code violation	238	755
Prohibition against use of school bus sign.....	52	63
Reckless driving or riding of animals	149	265
Vehicles spilling loads	137	252
TRANSPORTATION		
Administration of small boat harbors	221	542
<i>Appropriations</i> (this index)		
Developmental rates for general aviation activities	235	752
Highway projects, hearings on proposals for	163	304
TRUCKS		
Spilling loads on highways	137	252
UNEMPLOYMENT		
Expenditures for	226	737
State program for the unemployed	134	245
UNEMPLOYMENT COMPENSATION		
Amendments	157	290
Substitute referees, salary	126	218
UNIFORM PROBATE CODE		
Adoption	200	372
UNIVERSITY OF HAWAII		
<i>Appropriations</i> (this index)		
Campus center special fund, exemptions	123	209
Center for labor education and research, establishment	202	487
Discrimination prohibited	19	23
Law school facilities, appropriation	28	32
Leahi Hospital, transfer	59	70

	ACT	PAGE
President, household employees, civil service exemption	9	11
Student scholarship, enrollment at two campuses	67	81
URBAN RENEWAL		
Establishment of community development authority.....	153	270
USE TAX		
Out-of-state bids, public contracts	142	258
USURY		
Small business investment companies, exemption	203	489
UTILITIES		
<i>Public Utilities (this index)</i>		
VACATIONS		
Public employees, exclusion of certain	51	61
VETERANS' DAY		
Day of observance	220	541
VOTERS AND VOTING		
<i>Elections (this index)</i>		
WAGES		
Employment security substitute referees	126	218
Minimum, seasonal youth camp staff excluded	89	139
Overtime compensation for certain public employees	145	259
Prepaid health care, definition	78	102
WAIKIKI		
Improvements, delay of lapse of appropriations.....	115	204
WAIMEA HOSPITAL		
Employees, membership service credit	151	267
WASTES		
Guidelines relating to solid wastes	27	31
Solid waste, ownership.....	184	341
WATER		
Safe drinking water systems	84	112
WEAPONS		
Electric guns	74	100
WEIGHTS AND MEASURES		
Director of, odometers, regulation	45	53
WINES		
Fruit wines, liquor tax exemption	39	48

	ACT	PAGE
WITNESSES		
Consumer protection action, in, restitution.....	111	193
Indigent criminal defendants, payment of witness expenses	131	239
WORKERS' COMPENSATION		
Monthly allowance for services of attendant.....	17	21
YOUTH		
Office of children and youth, establishment	207	498
YOUTH AFFAIRS OFFICE		
Transfer of functions	187	345
YOUTH CORRECTIONAL FACILITY		
Amendments extending jurisdiction to adults.....	58	68
ZONING		
Housing projects exempt from	225	556
Land use law, agricultural district uses	199	369