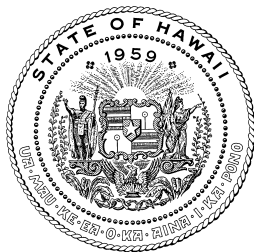


Small Business Regulatory Review Board Meeting

February 18, 2021

10:00 a.m.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813
Mailing Address: P.O. Box 2359, Honolulu, HI 96804
Email: dbedt.sbrrb.info@hawaii.gov
Website: sbrrb.hawaii.gov

Tel: 808 586-2419

AGENDA

Thursday, February 18, 2021 ★ 10:00 a.m.

David Y. Ige
Governor

Mike McCartney
DBEDT Director

Members

Robert Cundiff
Chairperson
O'ahu

Mary Albitz
Vice Chairperson
Maui

Garth Yamanaka
2nd Vice Chairperson
Hawai'i

Harris Nakamoto
O'ahu

Dr. Nancy Atmospera-Walch
O'ahu

William Lydgate
Kaua'i

James (Kimo) Lee
Hawai'i

Jonathan Shick
O'ahu

Taryn Rodighiero
Kaua'i

Mark Ritchie for
Director, DBEDT
Voting Ex Officio

As authorized under the Governor's December 16, 2020, Seventeenth Proclamation Related to the COVID-19 Emergency, the meeting will be held remotely with Board Members, Staff, and Agencies participating via online meeting venue. The public can participate in the meeting via video-audio livestream; to join the meeting, go to:

<https://zoom.us/j/3082191379>

Copies of the Board Packet will be available on-line for review at: <https://sbrrb.hawaii.gov/meetings/agendas-minutes?yr=2021>.

An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

Members of the public may submit written testimony via e-mail to: DBEDT.sbrrb.info@hawaii.gov. Please include the word "Testimony" and the subject matter following the address line. All written testimony should be **received no later than 4:30 p.m., Wednesday, February 17, 2021.**

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

I. Call to Order

II. Approval of January 21, 2021 Meeting Minutes

III. Old Business – After Public Hearing

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Hawaii Administrative Rules (HAR) Title 13 Chapter 241, **Vessel Registration**, promulgated by Department of Land and Natural Resources – **Discussion Leader – Taryn Rodighiero**

- B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Section 5A-11.4 of the Kauai County Code, **Home and Related Exemption Rules**, promulgated by County of Kauai Department of Finance – **Discussion Leader – William Lydgate**
- C. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 16 Chapter 71, **Certified Public Accountants and Public Accountants**, promulgated by Department of Commerce and Consumer Affairs – **Discussion Leader – Taryn Rodighiero**
- IV. **New Business** – Before Public Hearing
 - A. Discussion and Action on Proposed Amendments to HAR Title 11 Chapter 219, **Parking for Persons with Disabilities**, promulgated by Department of Health – **Discussion Leader – Harris Nakamoto**
- V. **Legislative Matters**
 - A. Discussion and Action on the following Legislative Matters:
 - a. House Bill 636 “Relating to the Small Business Regulatory Review Board” – provides appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of business, Economic Development and Tourism
 - b. Upcoming Governor’s Message Submitting for Consideration for the Gubernatorial Nomination of Harris Nakamoto to the Small Business Regulatory Review Board for a term to expire June 30, 2023
 - c. Upcoming Governor’s Message Submitting for Consideration for the Gubernatorial Nomination of James (Kimo) Lee to the Small Business Regulatory Review Board for a term to expire June 30, 2024
 - d. House Bill 1148 and Senate Bill 1262 “Relating to Land and Natural Resources” – authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to chapter 91, Hawaii Revised Statutes, and establishes a process for the board to adopt, amend and repeal administrative fee schedules, including public notice and meeting requirements
- VI. **Administrative Matters**
 - A. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, Hawaii Administrative Rules
- VII. **Next Meeting:** Thursday, March 18, 2021 at 10:00 a.m.
- VIII. **Adjournment**

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process, please call (808) 586-2419 or email dbedt.sbrrb.info@hawaii.gov at least three (3) business days prior to the meeting so arrangements can be made.

II. Approval of January 21, 2021 Meeting Minutes

Small Business Regulatory Review Board

MEETING MINUTES - HELD THROUGH VIDEO-CONFERENCING - **DRAFT**

January 21, 2021

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:12 a.m., with a quorum present, which was open to the public.

MEMBERS PRESENT:

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Garth Yamanaka, 2nd Vice Chair
- Dr. Nancy Atmospera-Walsh
- James (Kimo) Lee
- Taryn Rodighiero
- Mark Ritchie

ABSENT MEMBERS:

- Harris Nakamoto
- William Lydgate
- Jonathan Shick

STAFF: DBEDT

Dori Palcovich
Jet'aime Alcos

Office of the Attorney General

Margaret Ahn

II. **APPROVAL OF November 19, 2020 MINUTES**

Second Vice Chair Yamanaka motioned to accept the November 19, 2020 meeting minutes, as presented. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

III. **OLD BUSINESS** – After Public Hearing

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13 Chapter 256 Section 73 Kaneohe Bay Ocean Waters, promulgated by Department of Land and Natural Resources (DLNR)

Discussion leader Ms. Rodighiero stated that the rule changes are mostly housekeeping in nature with clarification of the regulations for the Kaneohe Bay ocean waters area, including restrictions and limitations to the educational permit requirements.

Mr. Ed Underwood, Administrator at DLNR's DOBOR (Division of Boating and Ocean Recreation) noted that Ms. Rodighiero summarized the rule changes well. Changes also clarify the rule's nonprofit requirements and cleans up language throughout. The public hearing was held on December 2, 2020 with one testifier from the neighborhood board that was in favor of the rule changes.

Second Vice Chair Yamanaka motioned to move the amendments to the Governor for adoption. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

IV. NEW BUSINESS – Before Public Hearing

A. Discussion and Action on Proposed Amendments to Kauai County Code Section 5A-11.4 of the Kauai County Code, Home and Related Exemption Rules, promulgated by County of Kauai – Department of Finance

Discussion leader Ms. Rodighiero stated that the rules were generally housekeeping measures; however, one of the biggest changes has to do with the amount of time to be physically present in a principal home or residence; this was being changed from 181 to 270 days.

Mr. Brad Cone, Real Property Tax Manager at the County of Kauai's Department of Finance, explained that an owner that currently has a home exemption was not affected by the rule changes; only new applicants would be affected. If an owner has a primary house, the owner will qualify for a home exemption. Further, if commercial or business activity is conducted from that house, instead of the homestead class tax, it would be considered to be one step above the homestead rate, or commercialized home-use.

Mr. Cone also noted that an off sight "home office" is not considered a commercial activity and will not affect the home exemption. Businesses, such as home daycare centers, would be in the "commercialized home-use" classification. Other examples of home business use include massage therapists, yoga studios, care homes, and any type of business that requires a commercial use permits. Overall, the changes made to the Kauai rules were intended to equalize with the other counties' rules.

Second Vice Chair Yamanaka motioned to move the proposed amendments to public hearing. Dr. Atmospera-Walch seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 15 Chapter 218 Kakaako Reserved Housing Rules, promulgated by Hawaii Community Development Corporation (HCDA) / Department of Business, Economic Development and Tourism

Mr. Deepak Neupane, Director of Planning & Development at HCDA, explained that the proposed amendments will allow for the payment of equity sharing without the sale or transfer of the Reserved Housing unit. The shared equity concept was first incorporated into the rules in 1985 and its purpose was to allow HCDA to collect its share of the equity in the reserved housing unit with the owner when the unit is sold.

Because the current rules do not include a provision for payment of shared equity without sale or transfer of reserved housing unit, amendments add language to allow for the payment of equity sharing without sale or transfer of the reserved housing unit. Amendments are applicable to all reserved housing units in the Kakaako community development.

Second Vice Chair Yamanaka made a motion to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed Amendments to HAR Title 11, Chapter 60.1, Air Pollution Control, promulgated by Department of Health (DOH)

Mr. Barry Ching, Program Specialist at DOH's Clean Air Branch, explained that most of the amendments are expected to clarify, update, and bring the rules in alignment with federal requirements and regulations. While a number of the rule changes may not have a negative impact on small business, some may actually benefit small business.

Clean Air Branch Manager, Ms. Marianne Rossio, explained the five proposed changes to the rules outside of the changes in alignment with the federal rules. The first category amends the status of non-major Covered Source Permits (CSP) to Noncovered Source Permits (NSP). This change will allow Hawaii to be consistent with the rest of the nation's states and will benefit small business because NSP's are simpler and have less annual and application permitting fees.

The second category will exempt nonroad engines from air permitting. The rationale for this is that nonroad engines are not stationary sources and DOH will no longer be regulating them in the stationary source permitting process. This would also benefit small business as they would no longer be required to go through the permitting process and pay the permitting fees but would be required to maintain a location log to verify that they are nonroad engines.

The third category adds test methods and removes the director's discretion in the determination of air violations; these changes are being proposed in order to address EPA's concerns and recommendations. The fourth category improves the existing regulations and adds new ones for open burning and agricultural burning. Although open burning is viewed as a tough issue, these rule changes attempt to balance acceptable uses of open burning while also minimizing the potential smoke impacts; it is anticipated that the changes will result in less fees. The fifth amendment will add several new categories of field citations.

In terms of outreach to the small business community, Mr. Ching explained that cooking and barbecuing in backyards are very big issues and concerns of DOH. As such, businesses that might be impacted by this rule are businesses that may, as an example, cook Huli-Huli chicken on the side of the road, of which, the rules narrow what can and cannot be done. In regard to how the on-road logs are being monitored, Ms. Rossio stated that there is an enforcement section in the branch that may ask to review the logs to verify non-road engines; inspectors monitor regularly.

Dr. Atmospera-Walsh motioned to forward the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

V. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, HRS

Chair Cundiff noted that there was nothing to report under administrative matters.

Hawaii's 2021 legislative session began January 20th. Members, James (Kimo) Lee and Harris Nakamoto's nominations to this Board are expected to be on the slate this year. There is also one vacancy on the Board. If any of the existing board members know of anyone that may be a good fit for this Board, please recommend him or her. It would be great to have a "full board" during this legislative session.

VI. NEXT MEETING - Thursday, February 18, 2021 at 10:00 a.m.

VII. ADJOURNMENT – Chair Cundiff made a motion to adjourn the meeting and Ms. Rodighiero seconded the motion; the meeting adjourned at 11:13 a.m.

III. Old Business – After Public Hearing

A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13 Chapter 241, “Vessel Registration,” promulgated by DLNR

SMALL BUSINESS STATEMENT
“AFTER” PUBLIC HEARING TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD
(Hawaii Revised Statutes (HRS), §201M-3)

Department or Agency: _____

Administrative Rule Title and Chapter: _____

Chapter Name: _____

Contact Person/Title: _____

Phone Number: _____

E-mail Address: _____ **Date:** _____

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ **Yes** ☐ **No**

(If "Yes," please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description: ☐ **New** ☐ **Repeal** ☐ **Amendment** ☐ **Compilation**

II. Will the proposed rule(s) affect small business?

☐ **Yes** ☐ **No** (If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ **Yes** ☐ **No**

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐ **Yes** ☐ **No**

(If "Yes" no need to submit this form.)

V. Please explain how the agency involved small business in the development of the proposed rules.

- a. **Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?**

VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:

1. A description of how opinions or comments from affected small businesses were solicited.
2. A summary of the public's and small businesses' comments.
3. A summary of the agency's response to those comments.
4. The number of persons who:
 - (i) Attended the public hearing:
 - (ii) Testified at the hearing:
 - (iii) Submitted written comments:
5. Was a request made at the hearing to change the proposed rule in a way that affected small business?
☐ **Yes** ☐ **No**
 - (i) If "Yes," was the change adopted? ☐ **Yes** ☐ **No**
 - (ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT
Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This statement may be found on the SBRRB Website at:
<http://dbedt.hawaii.gov/sbrrb-impact-statements- pre-and-post-public-hearing>

Post-Public Hearing Small Business Statement Attachment

Department of Land and Natural Resources, Division of Boating and Ocean Recreation
Proposed amendments to Hawai'i Administrative Rule Chapter 13-241

- A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

The Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) is proposing to amend HAR Chapter 13-241, Numbering of Vessels, to implement administrative rules regarding titling of vessels operated in state waters, including aligning vessel registration and vessel titling rules; make clarifying amendments to HAR Chapter 13-241 to account for titling restrictions and to remove conflicting language between titling and registration rules; and implement a fee structure for titling and registration services to be offered by DOBOR.

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of
Chapter 13-241
Hawaii Administrative Rules

[Date of adoption by agency]

1. Chapter 13-241, Hawaii Administrative Rules,
is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 2

BOATING

CHAPTER 241

NUMBERING AND TITLING OF VESSELS

Historical note

- | | |
|------------|---|
| \$13-241-1 | [Operation of certain unnumbered vessels prohibited] <u>Definitions</u> |
| \$13-241-2 | [Exemption from numbering provisions of this chapter] <u>Vessel numbering and titling requirements; operation of certain vessels prohibited.</u> |
| \$13-241-3 | Numbering system |
| \$13-241-4 | Number display |
| \$13-241-5 | Application for number <u>or title</u> ; contents; requirements |

§13-241-6 Authority to grant or refuse applications
 §13-241-7 Certificate of number and certificate of title; contents
 §13-241-8 Certificate of number [~~to be carried aboard vessel;~~] and certificate of title; description
 §13-241-9 Cancellation of certificate [~~and voiding~~] of number; withdrawal of number
 §13-241-10 Period of validity and renewal of certificate of number; dormant certificate of number; stored vessels
 §13-241-11 Owner required to report change of address, ownership, loss, destruction or abandonment of vessel
 §13-241-12 New owner must secure new certificate of number and certificate of title
 §13-241-13 Registration [~~stickers (decals)~~] decals
 §13-241-14 Stolen or mutilated certificates or registration [~~stickers (decals)~~] decals
 §13-241-15 Falsified, unauthorized, or removed identification number, registration decal, or title
 §13-241-16 Improper use of certificate of number or certificate of title
 §13-241-17 Seizure of documents and [~~stickers (decals)~~] decals
 §13-241-18 Numbering of manufacturer's and dealer's vessels
 §13-241-19 Livery boat number
 §13-241-20 [~~Documented vessels not to be numbered~~] Repealed
 §13-241-21 [~~Issue~~] Issuance of certificate of number [by department's agents] ; certificate of title to only be issued by the department
 §13-241-22 [~~Authorization of~~] Third-party vessel registration agents
 §13-241-23 Public records
 §13-241-24 Transmittal of statistical information
 §13-241-25 Fees and charges
 §13-241-26 Negotiable instruments; service charge

Historical note. ~~[This chapter is based on the numbering of vessels effective November 5, 1981, and as amended thereafter by the Department of Transportation, Harbors Division.]~~ The administrative jurisdiction for recreational boating and related vessel activity was transferred from the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. Hawaii became a vessel title state effective July 1, 2018, with the enactment of Act 46, SLH 2018, relating to the Uniform Certificate of Title for Vessels Act. [Eff 2/24/94; am and comp]

§13-241-1 [Operation of certain unnumbered vessels prohibited.] Every undocumented vessel on the waters of the State, except those expressly exempted as provided in section 13-241-2 shall be numbered. No person shall place, operate or give permission for the placement or operation of any undocumented vessel on the waters of the State unless the vessel is numbered in accordance with this chapter, except as provided for in section 13-241-2.] **Definitions.** As used in this chapter, unless otherwise provided or the context clearly indicates otherwise:

"Background" means the portion of the hull or superstructure, or a specially provided backing plate, upon which displayed numbers are placed, but shall not include any border, trim, outlining or shading of the numerals or letters.

"Block characters of good proportion" means numerals and letters that are vertical, not slanted, and of a plain style, not script or of varying thickness and preferably without border, trim, outlining or shading. Border, trim, outlining, or shading of characters shall be disregarded in determining height of the character, or its style or color contrast. Numerals and letters shall be of one solid color exclusive of any colored border, trim, outlining or shading which will form a good contrast with the color of the background and so maintained as to be clearly visible and legible.

"Contrast with the color of the background" means that numerals and letters in a displayed number is of such a different color from that of the background as to be distinctly visible and legible. [Eff 2/24/94; am and comp] (Auth: HRS §200-24)
(Imp: HRS §§200-24, 200-31)

§13-241-2 [Exemption from numbering provisions of this chapter.] Vessel numbering and titling requirements; operation of certain vessels prohibited.
(a) Except as provided in subsections (b) and (c):

- (1) Every undocumented vessel in or on the waters of the State shall be numbered in accordance with this chapter;
 - (2) No person shall place, operate, or give permission for the placement or operation of any undocumented vessel, or any vessel whose number has been cancelled, in or on the waters of the State unless the vessel is properly numbered in accordance with this chapter; and
 - (3) No person shall place, operate, or give permission for the placement or operation of any vessel whose certificate of number has expired, has become dormant, or has the status of "stored vessel", in or on the waters of the State.
- (b) A vessel shall not ~~[he]~~ be required to be numbered under this chapter if it is any of the following:
- (1) A vessel which has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.
 - (2) A vessel already covered by a number in full force and effect which has been issued to it pursuant to federal law or a federally approved numbering system of another jurisdiction; provided that the vessel shall not have remained within this State for a period in excess of sixty days.
 - (3) A vessel from a country other than the United States, provided that the vessel has not been in the waters of the State for a period in excess of sixty days.
 - (4) A vessel whose owner is the United States, used exclusively in the public service and is clearly identifiable as such a vessel.
 - (5) A vessel's lifeboat if the boat is used solely for lifesaving purposes. This exemption does not include craft carried aboard a vessel and used for other than lifesaving purposes.

- (6) A vessel belonging to a class of boats which has been exempted from numbering by the department after it has found that the numbering of vessels of such class will not materially aid in their identification; and, if any agency of the federal government has a numbering system applicable to the class of vessels to which the boat in question belongs, after the department has further found that the vessel would also be exempt from numbering if it were subject to federal law.
- (7) A vessel manually propelled.
- (8) A vessel eight feet or less in length propelled solely by sail.
- (9) A motorboat used exclusively for racing.
- (10) A vessel operating under a valid temporary certificate of number.
- (11) A motorboat whose propulsion machinery produces less than five horsepower.

~~[(b)]~~ (c) A vessel documented by the U.S. Coast Guard, or any federal successor agency thereto, shall be prohibited from obtaining a certificate of title pursuant to chapter 200A, Hawaii Revised Statutes, and shall be prohibited from being numbered under this chapter. A vessel documented by the U.S. Coast Guard may only be titled pursuant to chapter 200A, Hawaii Revised Statutes, or numbered under this chapter, or both, when the department receives satisfactory proof as may be necessary to determine that the vessel has been deleted from documentation in accordance with title 46, part 67, code of federal regulations, as amended.

(d) Nothing in this section shall prohibit the numbering of any undocumented vessel hereunder upon request by the owner even though such vessel is exempt from the numbering requirements of this chapter. [Eff 2/24/94; am and comp] (Auth: HRS §§200-24, 200-31) (Imp: HRS §§200-24, 200-31)

§13-241-3 Numbering system. (a) In the event that an agency of the United States shall have in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this chapter by the department shall be in conformity therewith.

(b) The vessel identification numbers issued pursuant to these rules shall consist of three parts. The first part shall consist of the capital letters HA identifying the State of Hawaii as the state of principal use. The second part shall consist of not more than four arabic numerals. The third part shall consist of not more than two capital letters. Each part will be separated from the other by hyphens or equivalent spaces. For example: HA-1240-AD; HA-124-AA; HA 1240 AD. The hyphen or space shall be equal to the width of any letter except "I" or any numeral except "1."

(c) Since the letters "I," "O" and "Q" may be mistaken for arabic numerals, all letter sequences using "I," "O" and "Q" shall be omitted. Objectionable words formed by the use of two or three letters will not be used. [Eff 2/24/94; comp
] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-4 Number display. (a) The identification number awarded to any vessel as indicated in the certificate of number shall be painted on, attached to, or otherwise permanently displayed on each side of the bow (i.e. the forward half of the hull) or on the permanent superstructure located on the forward half of the hull which is as nearly vertical as possible where such number may be easily observed and provide maximum opportunity for identification, or ~~when~~ , if due to vessel configuration, the above will not provide ready identification, on a bracket or fixture firmly attached to the forward half of the vessel. ~~[The]~~ A displayed number shall not be placed on the obscured underside of a flared bow where the angle is such that

the numbers cannot be easily seen from another vessel or ashore. The numerals and letters in a displayed number shall read from left to right, shall be in block characters of good proportion, and ~~[must]~~ shall measure not less than three full inches from top to bottom. A displayed number meets the sizing requirements of this section if it is clearly visible and legible from a distance of at least one hundred feet away. ~~[The phrase "block characters of good proportion" means that the numerals and letters are vertical, not slanted, and of a plain style, not script or of varying thickness and preferably without border, trim, outlining or shading. Border, trim, outlining, or shading of character shall be disregarded in determining height of the character, or its style or color contrast. The numerals and letters shall be of one solid color exclusive of any colored border, trim, outlining or shading which will form a good contrast with the color of the background and so maintained as to be clearly visible and legible. The phrase "contrast with the color of the background" means that the numerals and letters in the number will be of such a different color from that of the background as to be distinctly visible and legible. As used in this section, background shall mean that portion of the hull or superstructure, or a specially provided backing plate, upon which the numbers are placed, but shall not include any border, trim, outlining or shading of the numerals or letters. The test of legibility and for the determination of adequacy of contrast is the ability to read the letters and numbers at approximately one hundred feet distance.]~~

(b) No numerals, letters, or devices other than those used in connection with the ready identification numbers issued to a vessel shall be carried on the forward half of the vessel and no devices which might interfere with the ready identification of the vessel by its number shall be carried on any part of the vessel.

(c) No identification numbers other than those awarded to a vessel as indicated in a valid

certificate of number that is in full force and effect shall be displayed on the forward half of any undocumented vessel. Any other previously awarded number or numbers awarded in a certificate of number that has expired or been cancelled or withdrawn shall be covered or removed. [Eff 2/24/94; am and comp
] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

**§13-241-5 Application for number or title;
contents; requirements.** (a) The application for a certificate of title shall be made in accordance with chapter 200A, Hawaii Revised Statutes. The application for a certificate of number shall be made by the owner to the department or any agency authorized by the department in accordance with procedure prescribed by the department on the form it prescribes and shall contain:

- (1) The name, driver's license or civil identification number, residence, and mailing address of the owner.
- (2) [~~Date of birth of owner.~~] The owner's date of birth.
- (3) [~~Present citizenship of owner.~~] The owner's present citizenship.
- (4) [~~State~~] The state in which the vessel is principally used.
- (5) [~~Location~~] The location where vessel is principally kept.
- (6) [~~Present state or Coast Guard number on vessel,~~] The present U.S. Coast Guard number, if any, or number if numbered in a state other than Hawaii.
- (7) [~~Date~~] The date the vessel entered Hawaii, if numbered in another state.
- (8) [~~Date~~] The date the vessel was first operated by the applicant.
- (9) A description of the vessel including, but not limited to, the following so far as [it exists:] they exist: hull material (wood, steel, aluminum, plastic, other), type of

propulsion (outboard, inboard, inboard-outboard, sail, other), type of fuel (gas, diesel, other), length of vessel, make, model, type, manufacturer, builder, maker, year built, and country in which the vessel was built.

(10) ~~[The names and addresses of any lienholders in the order of their priority.]~~

~~(11) [Statement]~~ A statement as to [use] the primary operation of the vessel ~~[(pleasure, livery, government, youth group, dealer, manufacturer, commercial fishing, charter fishing, carrying passengers for hire, commercial other, other).]~~ , including, but not limited to, charter fishing, commercial fishing, commercial passenger carrying, dealer demonstration, manufacturer demonstration, other commercial operation, pleasure, rent or lease (livery), or other.

~~[(12) — Builder's]~~ (11) The manufacturer's or builder's hull identification number. Where there is no ~~[builder's]~~ hull identification number on the vessel or where a ~~[builder's]~~ hull identification number has been destroyed or obliterated, the ~~[application]~~ applicant shall [se] state so on the application.

~~[(13)]~~ (12) Any further information the department reasonably requires: (1) to identify the vessel, (2) to enable a determination that the owner is entitled to a certificate of number, (3) to determine if a security interest in the vessel exists, or (4) for the use by federal~~[7]~~ or other state or local agencies.

~~[(14)]~~ (13) A certification of ownership by the applicant.

~~[(15) — Signature of owner.]~~ (14) The applicant's physical signature. Except as otherwise required by law, an electronic signature shall not be acceptable for the purposes of this section.

~~(b) [If the application refers to a vessel purchased from or through a boat dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of this security agreement and be signed by the boat dealer as well as the owner. The boat dealer shall promptly mail or deliver the application to the department.]~~

~~(e)]~~ Every initial application for a certificate of number shall be accompanied by:

(1) Appropriate evidence establishing proof of ownership of the vessel by the applicant. Proof of such ownership shall only be established for the purposes of this section by one of the following:

(A) ~~[Certificate of sale signed by the seller, showing the name and address of the seller, name and address of the purchaser, the location and date of sale, and description of the vessel.]~~ A certificate of title issued in accordance with chapter 200A, Hawaii Revised Statutes.

(B) A properly endorsed document indicating title to the vessel, if the vessel has been numbered and issued a title by another state or country.

~~[(C) Where neither subparagraphs (A) nor (B) is appropriate, an affidavit executed by the applicant fully setting forth the facts to support applicant's claim of ownership in the vessel.]~~

~~(D) The department, if not satisfied with the evidence submitted as proof of ownership, may require additional information and documents, including any additional statements under oath to establish proof of ownership.]~~

(2) A statement under oath, or [the certificate of] a certification by a person authorized by the department, that the builder's hull identification number, if any, of the vessel

has been inspected and found to conform to the description given in the application, or any other proof of the identity of the vessel the department reasonably requires.

The department, if not satisfied with the evidence submitted as proof of ownership, may require additional information and documents, including any additional statements under oath, as is necessary to establish purported ownership of a vessel.

(d) All requirements governing the application for certificate of number shall apply to livery (rental) boats, except that the description of the motor, if any, and type of fuel need not be completed on the application in every case where the engine is not rented as part of the boat.

(e) ~~[Application]~~ An application for certificate of number for a dealer's or manufacturer's ~~[vessels]~~ vessel shall not require a description of the vessel ~~[since the number issued may be transferred from one vessel to another]~~. In lieu of the description, the word "manufacturer" or ~~["dealer,"]~~ "dealer", whichever is appropriate, shall be plainly indicated on the application.

(f) The department shall require any person applying for a certificate of number or title pertaining to a foreign built vessel to furnish evidence of payment of custom duties upon reasonable belief that any United States Customs duty pertaining to the vessel has not been paid.

~~(g) [A person applying for a certificate of number for a vessel that is presumptively five net tons or more (thirty two feet in length, eight feet in beam, and two and one half feet in depth, or greater) and to be used in coasting trade or commercial fishing shall be granted a temporary certificate of number valid for thirty days. The applicant shall be notified of the necessity for having his vessel measured. If, on admeasurement, the vessel is found to be less than five net tons, a certificate of number may be awarded. If the vessel is found to be five net tons or over, the temporary certificate shall be cancelled and notice of the action by the department~~

~~shall be sent to the Coast Guard. An application for any vessel of five net tons or over shall not be accepted and notice of the action by the department shall be sent to the Coast Guard.~~

~~(h)]~~ An application for a certificate of number pertaining to a foreign built vessel or a vessel owned by a person not a citizen of the United States and to be used in ~~[coasting]~~ coastwise trade or commercial fishing shall not be accepted, and notice of the action by the department shall be sent to the U.S. Coast Guard.

~~[(i)]~~ (h) An application for issuance of a certificate of number pertaining to a vessel previously owned in whole or in part by a citizen of the United States and purchased by a person not a citizen of the United States shall be accompanied by evidence that the transaction was approved by the ~~[United States]~~ U.S. Maritime Administration, except in those instances where federal laws and regulations do not require approval. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-6 Authority to grant or refuse applications. (a) The department shall examine and determine the genuineness, regularity, and legality of ~~[very]~~ every application for numbering of a vessel and any other application lawfully made to the department relating to this chapter and may in all cases conduct any investigation as may be deemed necessary or require additional information. The department shall reject any application if not satisfied with the genuineness, regularity, or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

(b) The issuance of a certificate of number under this chapter, or a certificate of title under chapter 200A, Hawaii Revised Statutes, shall not in any way be construed that the department is warranting or guaranteeing the title ~~[of]~~ to the vessel ~~[as it appears on]~~ named in the certificate. [Eff 2/24/94; am

and comp] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-7 Certificate of number and certificate of title; contents. (a) [The] A certificate of number shall contain the following information:

- (1) The name and address of the owner.
- (2) Manufacturer's or builder's hull identification number, if any.
- (3) Hull material [~~(wood, steel, aluminum plastic, other).~~] (aluminum, fiberglass, plastic, rubber/vinyl/canvas, steel, wood, other).
- (4) Type of propulsion [~~(outboard, inboard, inboard-outboard, sail, other).~~] (inboard, outboard, pod drive, sterndrive, other).
- (5) Type of fuel [~~(gasoline, diesel, other).~~] (electric, diesel, gasoline, other).
- (6) Length of vessel.
- (7) Make, model, type or builder of vessel and year built.
- (8) Statement as to use [~~(pleasure, livery, dealer, manufacturer, commercial fishing, vessel carrying passenger for hire, commercial other, other).~~] (charter fishing, commercial fishing, commercial passenger carrying, dealer demonstration, manufacturer demonstration, other commercial operation, pleasure, rent or lease (livery), other).
- (9) Number issued to vessel.
- (10) Expiration date of certificate.
- (11) Notice [~~to~~] that the owner [~~that he~~] shall report within seven days changes of ownership or address and destruction or abandonment of vessel.
- (12) Notice that the operator shall:
 - (A) Always carry the certificate on vessel when in use.
 - (B) Report to the department all boating accidents in accordance with chapter 13-242.

(C) Stop and render aid or assistance if involved in a boating accident.

(13) Any other data considered necessary by the department.

(b) The description of the vessel will be omitted from the certificate of number awarded to a boat dealer or boat manufacturer pursuant to section 13-241-18 since the number and the certificate of number issued may be transferred from one vessel to another. In lieu of the description, the word "manufacturer" or "dealer", whichever is appropriate, will be plainly marked on each certificate.

(c) The description of the motor and type of fuel will be omitted from the certificate of number of a livery boat in any case where the motor is not rented with the vessel.

(d) In addition to the requirements of section 200A-9(a), Hawaii Revised Statutes, a certificate of title shall contain any other information considered necessary by the department. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-8 Certificate of number [~~to be carried aboard vessel;~~] and certificate of title; description.

(a) The size and format of a certificate of number shall be [~~of pocket size and water resistant, as prescribed by the chairperson of the board of land and natural resources.~~] determined by the department. The operator of the vessel shall ensure that the certificate of number is readily available at all times for examination on the vessel for which it is issued, whenever the vessel is in operation.

(b) The size and format of a certificate of title shall be determined by the department. The owner shall not be required to keep the certificate of title on the vessel for which it is issued. [Eff 2/24/94; am 6/13/03; am and comp
] (Auth: HRS §§200-24, 200-31, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-9 Cancellation of certificate [and voiding] of number; withdrawal of number. (a) Except as provided in ~~[subsection (b)]~~ this section or as otherwise required by law, a number issued ~~[under this chapter]~~ to a vessel pursuant to this chapter shall be permanent.

(b) The chairperson ~~[of the board of land and natural resources]~~ may cancel a certificate of number ~~[or withdraw a number]~~ issued to a vessel under this chapter even though the action occurs before the expiration date of the certificate of number and regardless of whether or not the certificate of number is surrendered to [the issuing office. Certain causes] the department. Causes for cancellation of certificates of number ~~[and withdrawing of number are:]~~ include, but are not limited to:

- (1) Issuance of a marine document by the U.S. Coast Guard for the same vessel.
- (2) False or fraudulent certification in an application for number.
- (3) ~~[Failure to renew a certificate of number within one year of date of expiration.]~~
- ~~-(4) If a]~~ The vessel to which the number is assigned is lost, destroyed, abandoned, sunk, or permanently removed from the State.
- ~~[-(5)]~~ (4) Other reasons when necessary and proper to carry out this chapter.

(c) A vessel permanently removed from the State shall not have its certificate of number automatically cancelled, and the owner shall be responsible for any and all fees incurred and owed to the department.

(d) A certificate of number shall be automatically cancelled if the corresponding certificate of title is cancelled.

(e) Any vessel whose certificate of number has been cancelled shall also have its number automatically withdrawn. Any number that has been withdrawn shall be removed from further use, except that the board may reinstate a number that has been withdrawn. [Eff 2/24/94; am and comp

] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-10 Period of validity and renewal of certificate of number; dormant certificate of number; stored vessels.

(a) The original certificate of number initially issued to a vessel pursuant to this chapter shall continue in full force and effect for a period ending one year from the date of issuance of the certificate unless sooner terminated or discontinued in accordance with ~~[these rules.]~~ applicable rules or laws.

(b) If the owner named in a certificate of number is deceased, the certificate of number may be designated as "dormant" status upon submission of a valid death certificate to the department. Subject to compliance with the above, a certificate of number becomes "dormant" beginning on the date of the owner's death and ending on the date that the deceased owner's name is properly removed from the corresponding certificate of title. A vessel properly designated as "dormant" may maintain its assigned number past the expiration date on the vessel's certificate of number or may be assigned a new number.

(c) Any vessel not owned by or operated under the custody or control of a boat manufacturer or boat dealer, and which has a valid certificate of number issued pursuant to this chapter, may be stored; provided that:

- (1) An owner desiring to change the status of their vessel's certificate of number to or from "stored" shall make written application to the department on a form prescribed by it at least five business days before the desired date of the status change.
- (2) Changing the status of a certificate of number to or from "stored" shall not be effective until all applicable fees owed to the department are paid and the department approves the change in status.
- (3) The owner of a stored vessel shall surrender the last issued certificate of number to the department.

(4) The effective date for a certificate of number being changed to or from "stored" status shall only be the date approved by the department.

(d) Except for stored vessels and vessels with a dormant certificate of number, the following shall apply to all certificates of number:

(1) A certificate of number issued pursuant to this chapter may be renewed ~~[at any time within a ninety-day period preceding the]~~ no earlier than ninety days before its expiration date. The same number shall be assigned if the renewal application is received within ~~[a]~~ one year after the expiration date of the certificate of number.

~~[(e)]~~ (2) A certificate of number renewed on or prior to the expiration date shall be valid for a period ending one year from the date of expiration of the certificate being renewed. A certificate of number renewed after the ~~[date of]~~ expiration ~~[of the certificate being renewed]~~ date shall be valid for a period ending one year from the date of ~~[the certificate being renewed.]~~ renewal.

~~[(d)]~~ (3) A renewal application received more than ~~[a]~~ one year after the date of expiration of the certificate of number shall be treated in the same manner as an application for an original number.

(e) ~~[A certificate of number is void after the date of expiration indicated thereon.]~~ A renewal application for a certificate of number that has been cancelled or a number that has been withdrawn, or both, shall be treated in the same manner as an application for an original number.

(f) Fees that would be assessed pursuant to section 13-241-25, except those relating to stored vessels, may be waived by the department for the period that a vessel remains stored or a certificate of number remains dormant.

(g) Members of the U.S. Armed Forces on active duty, stationed or on order to be stationed in Hawaii, their spouses, and their dependents, shall be exempt from subsection (d); provided that this exemption shall only apply for the period that the U.S. Armed Forces member is on active duty and stationed in Hawaii, and the department receives satisfactory proof as may be necessary to determine such status.

(h) Only the owner or a co-owner named in a vessel's certificate of title or certificate of number, or a person who has been given the power of attorney for an owner or co-owner, established by satisfactory proof as may be necessary to determine such status, may renew a certificate of number or change the certificate of number to "stored" status. A person desiring to renew the certificate of number for a vessel shall, at minimum, provide the vessel's assigned number or hull identification number to be allowed to proceed with the renewal. [Eff 2/24/94; am and comp] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-11 Owner required to report change of address, ownership, loss, destruction or abandonment of vessel. (a) The owner of any vessel for which a certificate of number or certificate of title has been issued in accordance with this chapter or chapter 200A, Hawaii Revised Statutes, shall notify the department in writing within ~~[seven]~~ five business days if:

- (1) The vessel is documented by the U.S. Coast Guard; lost, destroyed, abandoned, or sunk; or permanently removed from the State; or
- (2) ~~[The owner transfers all or any part of the owner's interest in such vessel, other than a security interest to another person or persons; or~~
- ~~(3)]~~ The owner's address no longer conforms to the address appearing on the certificate of number or certificate of title.

(b) The ~~[holder of a certificate of number,]~~ owner, as a part of the notification required by subsection (a), shall furnish the department with the ~~[holder's]~~ owner's new address, if the ~~[holder's]~~ owner's address no longer conforms to the address appearing on ~~[the]~~ a certificate of number or certificate of title. If the change in status involves a transfer of ownership, the name and address of the new owner shall be included in the notification. ~~[A transfer by an owner is not effective until this section has been complied with and the owner has delivered possession of the vessel to the transferee.]~~ A notification required pursuant to this section sent by mail shall not be effective until the department receives the notification.

(c) The certificate of number for a vessel shall terminate if:

- (1) The vessel is documented by the U.S. Coast Guard, lost, destroyed, abandoned, sunk, or permanently removed from the State; or
- (2) The owner transfers all or any part of the owner's interest in the vessel, other than a security interest to another person or persons. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-24, 200A-29)
(Imp: HRS §§200-22, 200-24, 200-31, 200A-29)

§13-241-12 New owner must secure new certificate of number and certificate of title. (a) The new owner of all or any part of the interest in any vessel for which a certificate of number or certificate of title has been issued pursuant to this chapter shall, within ~~[seven]~~ ten business days after acquiring same, make application to the department upon forms prescribed by it, for transfer or revision, whichever is appropriate, of the certificate of number or certificate of title issued to such vessel. ~~[The application shall contain, in addition to the information prescribed in section 13-241-5 for certificate of number applications a statement concerning the date of purchase by the applicant and~~

~~the name and address of the person from whom the vessel or an interest therein was acquired.]~~ The amended ~~[certification]~~ certificate of number shall, if in full force and effect at the time of the transfer, remain valid for so long as the original certificate of number would have been valid under this chapter. Except as provided in subsection (b), unless ~~[the]~~ an application is made [and fee] , the appropriate fees are paid, and an amended certificate of number is obtained within [seven days,] the time limit prescribed by this subsection, the vessel shall be deemed to be without certificate of number, and it shall be unlawful for any person to operate the vessel on the waters of the State until a valid certificate is issued.

(b) Subsection (a) notwithstanding, if a boat dealer (1) buys a vessel for which a certificate of number has been awarded pursuant to this chapter, (2) procures the certificate of number from the owner, (3) holds the vessel for resale, and (4) notifies the department of the purchase within ~~[seven]~~ ten business days after delivery of the vessel, the boat dealer need not apply to the department for transfer of the certificate of number issued to the vessel. A copy of the dealer's notification of purchase to the department shall, together with the certificate of number, be available at all times for examination on the vessel for which issued, whenever the vessel is in operation. The boat dealer, upon transferring the vessel to another person, shall promptly mail or deliver the certificate of number to the department with the transferee's application for a new certificate of number as prescribed in subsection (a).

(c) Every boat dealer shall maintain, for a minimum of three years, a written record, in ~~[the form the chairperson of the board of land and natural resources, prescribes,]~~ such a form prescribed by the department, of every vessel bought, sold or exchanged, or received for sale or exchange. The record shall~~[, for the purpose of enforcing these rules,]~~ be open to inspection by a representative of the department or law enforcement personnel during reasonable business

hours for the purposes of verifying compliance with this subsection. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-13 Registration [~~stickers~~-(~~decals~~)-.] decals. (a) Every vessel required to be numbered in the State shall display [~~stickers issued by the department~~] registration decals to identify the vessel as [~~currently registered.~~] having a valid certificate of number. No decals other than decals issued by the department shall meet the requirements of this subsection.

(b) Registration [~~stickers~~] decals shall have a dominant-colored border around their edge which shall change from year to year. Effective January 1, 1981, the color of the border shall be blue; international orange in 1982; green in 1983; red in 1984; and the cycle to be repeated commencing in 1985.

(c) Registration [~~stickers~~] decals shall be securely affixed on each side of the vessel three inches aft (towards the stern) of, and directly in line with, the registration numbers required by this chapter, and shall be [~~so~~] maintained so as to be clearly [~~legible and~~] visible and legible at all times. Only current registration [~~stickers~~] decals shall be [~~displaced.~~] displayed. [~~All previous year stickers will~~] Any registration decals that are expired or otherwise invalid shall be covered or removed. [Eff 2/24/94; am and comp

] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-14 Stolen or mutilated certificates or registration [~~stickers~~-(~~decals~~)-.] decals. (a) If any [~~certificates~~] certificate of number or registration [~~sticker~~] decals becomes lost, destroyed, stolen, mutilated, or illegible, the owner of the vessel for which the same was issued shall, within [~~seven~~] five business days of the occurrence, [~~forward to~~] notify the department [~~a report~~] in writing, describing the

circumstances of the loss or destruction and certifying ~~[to]~~ its loss ~~[together with]~~ .

(b) If the owner wishes to obtain a replacement certificate of number or registration decal, or both, the owner shall also submit a completed application form as prescribed by the department for the replacement of the certificate of number or registration ~~[sticker]~~ decal, or both. The duplicate certificate of number or registration ~~[sticker]~~ decal, or both, that are issued as a result of such application ~~[will]~~ shall replace the certificate of number or registration ~~[sticker so lost or destroyed. Any]~~ decal, or both.

(c) If an owner wishes to replace a certificate of number or registration ~~[sticker so mutilated as to be illegible]~~ decal, or both, due to mutilation, the owner shall ~~[be forwarded]~~ forward the mutilated certificate of number or registration decal, or both, to the department with the application for replacement. [Eff 2/24/94; am and comp

] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-15 Falsified, unauthorized, or removed identification number, registration decal, or title.

(a) No person shall buy, receive, operate, possess, sell, or dispose of a vessel with knowledge that an identification number or registration ~~[sticker]~~ decal on the vessel has been removed or falsified, or that the title has been falsified, with intent to avoid compliance with this chapter or to conceal or misrepresent the identity of the vessel or its owner.

(b) No person shall remove or falsify a vessel identification number or registration ~~[sticker]~~ decal or affix to a vessel an identification number or registration ~~[sticker]~~ decal not authorized by law for use on the vessel ~~[in order]~~ with the intent to avoid compliance with this chapter or to conceal or misrepresent the identity of the vessel or its owner. [Eff 2/24/94; am and comp] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-16 Improper use of certificate of number or certificate of title. (a) No person shall permit another not entitled to use or have possession of a certificate of number ~~[or]~~ , registration ~~[sticker]~~ decal, or certificate of title.

(b) No person shall alter, forge, or counterfeit a certificate of number ~~[or]~~ , registration ~~[sticker]~~ decal, or certificate of title.

(c) No person shall have possession of or use a certificate of number ~~[or]~~ , registration ~~[sticker]~~ decal, or certificate of title knowing it to have been altered, forged, or counterfeited.

(d) No person shall use a false or fictitious name or address, make a false statement, or conceal any material fact in an application for a certificate of number or its transfer or in an application for a certificate of title. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-17 Seizure of documents and ~~[stickers (decals)]~~ decals. The department ~~[is authorized to]~~ may take possession of any certificate of number, permit ~~[or]~~ , registration ~~[sticker]~~ decal, or certificate of title issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-29)

§13-241-18 Numbering of manufacturer's and dealer's vessels. (a) ~~[Numbering]~~ The numbering requirements of ~~[these rules]~~ this section shall apply to unnumbered vessels operated by boat manufacturers or boat dealers.

(b) A boat dealer or boat manufacturer, upon application to the department using forms prescribed

by it, may obtain a certificate of number as prescribed by the department for use in the testing, demonstration, delivery or transportation of unnumbered vessels that the applicant owns upon payment of a required fee for each certificate. A certificate of number so issued may be used by the applicant in the testing, demonstration, delivery or transportation of unnumbered vessels that the applicant owns by temporary placement of the number assigned by the certificates on the vessel so tested, demonstrated, delivered, or transported. The temporary placement of numbers shall otherwise be as prescribed by these rules.

(c) ~~[The boat manufacturer or boat dealer]~~ A boat dealer or boat manufacturer may have ~~[the]~~ a number, issued by the department, printed upon or attached to a movable sign or signs to be temporarily but firmly mounted upon or attached to an unnumbered vessel that the ~~[manufacturer or]~~ dealer or manufacturer owns being tested, demonstrated, delivered, or transported~~[, demonstrated or tested so long as]~~ provided that the [display] number being displayed meets the requirements of section 13-241-4.

(d) No person other than a boat dealer or boat manufacturer or ~~[a]~~ an authorized representative of a boat dealer or boat manufacturer shall display or use a boat dealer's or boat manufacturer's identifying number.

(e) No boat dealer or boat manufacturer or representative of a boat dealer or boat manufacturer shall use a boat dealer's or boat manufacturer's number for any purpose other than the ~~[purpose described]~~ purposes specified in subsection (b).

(f) The boat manufacturer or boat dealer may ~~[have]~~ be issued more than one certificate of number ~~[issued]~~ if the boat manufacturer or boat dealer is the owner of more than one vessel required to be numbered; provided that upon the sale of any such vessel by said boat manufacturer or boat dealer~~[, then a number shall be applied for by]~~ the new owner shall submit an application for a number and obtain a new number for the purchased vessel in the manner provided

for in these rules. [Eff 2/24/94; am and comp
] (Auth: HRS §200-24) (Imp: HRS §§200-24,
200-31)

§13-241-19 Livery boat number. A person who is engaged in the business of boat livery, upon proper application to the department upon forms prescribed by the department, may obtain a certificate of number for use on vessels so rented. [Eff 2/24/94; am and comp
] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

~~[§13-241-20 Documented vessels not to be numbered. A vessel documented by the Coast Guard or any federal successor thereto shall not be numbered under this chapter.]~~ [Eff 2/24/94; R
] (Auth: HRS §§200-24) (Imp: HRS §§200-24, 200-31)

§13-241-21 [Issue] Issuance of certificate of number [by department's agents] ; certificate of title to only be issued by the department. The department [may] , and any third-party vessel registration agent who is properly authorized pursuant to section 13-241-22, shall have the authority to issue any certificate of number directly [or may authorize any person to act as agent for the issuance thereof. In the event that a person accepts such authorization, that person may be assigned registration stickers, a block of numbers, and certificates which, upon issuance in conformity with this chapter shall be valid as if issued directly by the department] , provided that third-party vessel registration agents shall only have the authority to issue and renew vessel certificates of number and shall be prohibited from processing vessel transfers. Only the department shall have the authority to issue certificates of title, and the department shall not delegate this authority. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-24, 200A-29) (Imp:
HRS §§200-24, 200-31, 200A-29)

§13-241-22 ~~[Authorization of]~~ Third-party vessel registration agents. (a) ~~[Agents]~~ Persons who are not employees of the department and who are authorized ~~[by the department]~~ in accordance with this section to conduct vessel registration ~~[of vessels]~~ tasks shall be known as "third-party vessel registration agents."

(b) ~~[Vessel]~~ A third-party vessel registration ~~[agents]~~ agent's authority to issue and renew vessel certificates of number shall only be valid if they have been appointed by the chairperson ~~[of the board of land and natural resources]~~ and are in compliance with all requirements of this section.

(c) No compensation shall be given to third-party vessel registration agents for their services.

(d) ~~[Each vessel registration agent shall be bonded under a good and sufficient bond conditioned as deemed necessary, the premium to be paid by the State.]~~ Each third-party vessel registration agent properly authorized pursuant to this section may be assigned registration decals, a range of registration numbers, and blank certificates of number which, upon issuance in conformity with this chapter, shall be valid as if issued directly by the department.

(e) All moneys received by a third-party vessel registration agent ~~[from registration of vessels]~~ relating to issuance and renewal of vessel certificates of number shall be kept separate from any other funds of the agent, and all ~~[the]~~ such moneys received shall at all times belong to the State.

(f) Each third-party vessel registration agent shall have, and shall maintain as a condition of appointment, the following ~~[qualifications]~~:

- (1) An established place of business~~[-]~~ ;
- (2) Be engaged in ~~[an]~~ a business activity directly related to boating~~[-]~~ ; and
- (3) A means of identification~~[-, which will]~~ that clearly ~~[indicate]~~ indicates to the public the name of the business~~[-, the means of]~~

~~identification to be required for each separate branch of the business which will be authorized to conduct registration of vessels.] and clearly indicates the third-party vessel registration agent's authorization from the department to issue and renew vessel certificates of number.~~

[Eff 2/24/94; am and comp

] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-23 Public records. [Records]

Notwithstanding any law to the contrary, records of the department made or kept pursuant to this chapter, or chapter 200A, Hawaii Revised Statutes, shall be public records. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-24, 200A-29) (Imp: HRS §§200-24, 200-31, 200A-11, 200A-29)

§13-241-24 Transmittal of statistical information. (a) In accordance with any written request duly made by an [authorized official or] employee of a government agency [of the United States], any information to be used for official business of the agency relating to numbered vessels, compiled or otherwise available to the department pursuant to this chapter, shall be transmitted to the [official] employee or agency [of the United States].

(b) In accordance with any written request made on a form prescribed by the department, any information relating to numbered vessels, compiled or otherwise available to the department pursuant to this chapter, may be transmitted to the requester; provided that the information requested will be used only for research or educational purposes. The department may require any information as necessary to verify the identity of the requester and the purpose for requesting information.

(c) In accordance with any written request duly made by a law enforcement agency or ocean safety

agency for official use only, the department may grant access to its database containing information on numbered vessels.

(d) The department may charge a fee pursuant to section 13-241-25(h) for providing information in accordance with this section. If any requester is found to be using information provided under this section for any unauthorized purposes, the department shall immediately revoke access to the information and any requests made by the offending requester, their agency, or their organization pursuant to this section shall automatically be denied for no less than two years from the date that the department revokes access to the information. [Eff 2/24/94; am and comp

] (Auth: HRS §200-24) (Imp: HRS §§200-24, 200-31)

§13-241-25 Fees and charges. (a) Except as provided in section 13-241-10, the department shall not waive any fees assessed pursuant to this section. The fees [~~to be charged by the department for registration, annual renewal, transfers, and duplicate certificates and registration stickers~~] for all vessels not owned by or operated under the custody or control of a boat manufacturer or boat dealer shall be as follows:

- (1) [~~Initial annual registration fee.~~] For the issuance of an original certificate of number:
 - (A) For each vessel less than twenty feet in length, [~~\$18.~~] \$25.00;
 - (B) For each vessel twenty feet or more in length, [~~\$30.~~] \$40.00; and
 - (C) For each amphibious vehicle licensed as a motor vehicle, [~~\$20.~~] \$30.00
- (2) [~~Annual certificate renewal fee.~~] For the annual renewal of a certificate of number:
 - (A) For each vessel less than twenty feet in length, [~~\$15.~~] \$20.00;
 - (B) For each vessel twenty feet or more in length, [~~\$20.~~] \$35.00; and

- (C) For each amphibious vehicle licensed as a motor vehicle, [~~\$15.~~] \$25.00.
- (3) [~~Reregistration fee.~~] For the [~~reregistration~~] re-registration of a vessel [~~, after a~~] whose certificate of number has been [~~cancelled or voided,~~] cancelled, two times the appropriate amount provided in paragraph (1);
- (4) [~~Transfer fee.~~] For the transfer of a certificate of number, [~~\$10.~~] \$10.00;
- (5) [~~Certificate and registration sticker replacement fee.~~] For the issuance of a replacement certificate of number or a replacement set of vessel registration [~~stickers, \$10~~] decals, \$10.00 each; [and]
- (6) [~~Certificate modification fee.~~] For modifying a certificate of number, [~~\$10.~~] \$10.00;
- (7) For changing the status of a certificate of number to or from "stored", \$25.00 each;
- (8) For an initial certificate of title, \$20.00;
- (9) For the transfer of a certificate of title, \$20.00;
- (10) For the issuance of a replacement certificate of title, \$50.00; and
- (11) To record a supplemental lien on a previously titled vessel, \$10.00.

(b) [~~For~~] The fees for vessels owned by or operated under the custody or control of a boat manufacturer or boat dealer, [the manufacturer or dealer shall pay, in lieu of the fees and charges provided for in subsection (a):] to be used by the boat manufacturer or boat dealer for demonstration purposes, shall be as follows:

- (1) [~~Boat manufacturer and boat dealer annual certificate fee.~~] For each new certificate of number, a fee of [~~\$25.~~] \$40.00;
- (2) [~~Annual certificate renewal fee.~~] For the annual renewal of a certificate of number, a fee of [~~\$20.~~] \$30.00;
- (3) [~~Certificate reissuance.~~] For the reissuance of a certificate of number after

a certificate of number has been canceled or voided, a fee of [~~\$25.~~] \$40.00; and

- (4) [~~Certificate and registration sticker replacement fee.~~] For the replacement of a certificate of number or registration [~~sticker,~~] decal, a fee of [~~\$10.~~] \$10.00 each.

(c) For all renewals of certificates of number accomplished online, a non-refundable convenience fee of \$5.00 shall be assessed.

(d) No fee shall be charged by the department for registration, transfer, or annual renewal relating to a vessel whose owner is the United States, the State, or a subdivision thereof.

~~[(d)]~~ (e) [A nonprofit corporation] An eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose purposes relate to promoting the ability of children to do things for themselves, to train them in boating, water safety, scout-craft and camping, and to teach them patriotism, courage, self-reliance, and kindred virtues [shall not be required to pay] may be exempted by the department from paying the fees provided in this section [relating to] for vessels owned by the organization and used exclusively for the purposes of the organization.

~~[(e)]~~ (f) [Penalty fees.] The following penalties shall apply for certificates of number and certificates of title:

- (1) If the owner of a vessel fails to obtain a certificate of number as required by this chapter, ~~[the applicable fee plus a penalty equal to one tenth of such fee shall]~~ the fee for a new certificate of number shall be two times the fee that would be collected [from the owner for each month or fraction of a month the owner is late in registering].
- (2) If a certificate of number is not renewed on or before ~~[the date on which it expires, the applicable annual renewal fee plus a penalty~~

~~equal to one-tenth of such fee shall]~~ its expiration date, the fee shall be two times the fee that would be collected ~~[from the owner for each month or fraction of a month the owner is late in renewing]~~ , except where the vessel ~~[has not been on the waters of the State]~~ is not located in the State or in waters of the State on and subsequent to the expiration date.

- (3) If the ~~[purchaser]~~ new owner of any vessel fails to ~~[apply for]~~ submit a timely application for transfer of the certificate of number relating to the vessel as required by section 13-241-12, [the applicable fee plus a penalty of ten per cent for each month or fraction thereof the owner is late in applying for the transfer shall be collected from the owner except where the vessel has not been on the waters of the State] the fee shall be two times the fee that would be collected, except where the vessel is not located in the State or in waters of the State on the date of purchase and subsequent to the purchase.
- (4) If the owner of a vessel fails to obtain a certificate of title as required by chapter 200A, Hawaii Revised Statutes, the fee for a new certificate of title shall be three times the fee that would be collected.
- (5) Any person who fails to provide the notification to the department required by section 13-241-11(a) within the specified time limit shall be assessed a penalty of \$50.00.
- (6) The penalty fees prescribed [in] by this section [are] shall be in addition to any other penalties imposed by the department or a court for violations of these rules.

~~[-(f)]~~ (g) ~~[Payment of fee required prior to processing. No]~~ In addition to the restrictions in section 200-31(b), Hawaii Revised Statutes, an application for a certificate of number, transfer or

renewal of certificate of number, ~~[or for a]~~ duplicate certificate of number ~~[or]~~ , duplicate registration ~~[stickers]~~ decal, certificate of title, transfer of certificate of title, duplicate or replacement certificate of title, or to record a lien on a certificate of title shall not be processed ~~[until the prescribed fees are paid.]~~ if:

- (1) The department has not received the notification required by section 13-241-11(a), if applicable;
- (2) The fees required by this section are not paid in full;
- (3) The applicant is delinquent in payment of any moneys due and payable to the department; or
- (4) The applicant has a pending citation for violation of any of the department's rules.

~~[-(g)-]~~ (h) ~~[Fees for furnishing information.]~~

Individuals or firms requesting an alphabetical or numerical listing of boat owners and information concerning their boats shall be charged a fee as prescribed by the chairperson~~[, board of land and natural resources]~~. [Eff 2/24/94; am 1/22/10; am and comp]

(Auth: HRS §§200-24, 200A-22, 200A-29) (Imp: HRS §200-32, 200A-7, 200A-22, 200A-29)

§13-241-26 Negotiable instruments; service charge. (a) The service charge for any dishonored check, draft, certificate of deposit, or other negotiable instrument ~~[is \$12.]~~ shall be \$50.00.

(b) Payment to and acceptance by the department of the service charge for a check, draft, certificate of deposit, or other negotiable instrument~~[,]~~ shall not be construed as a waiver of any violation of the Hawaii Penal Code, chapters 701 to 713, Hawaii Revised Statutes, or of these rules." [Eff 2/24/94; am and comp] (Auth: HRS §200-2) (Imp: HRS §200-2)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. The amendments to and compilation of chapter 13-241, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson
Board of Land and Natural Resources

APPROVED AS TO FORM:

Lauren Chun

Deputy Attorney General

III. Old Business — After Public Hearing

B. Discussion and Action on the Small Business Statement After Public hearing and Proposed Amendments to Section 5A-11.4 of the Kauai County Code, “Home and Related Exemption Rules,” promulgated by County of Kauai - Department of Finance

SMALL BUSINESS STATEMENT
"AFTER" PUBLIC HEARING TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD
(Hawaii Revised Statutes (HRS), §201M-3)

Department or Agency: County of Kauai Department of Finance - Real Property Division
Administrative Rule Title and Chapter: Home and Related Exemption Rules
Chapter Name: Section 5A-11.4 of the Kauai County Code
Contact Person/Title: Brad Cone, Real Property Tax Manager
Phone Number: (808)241-4228
E-mail Address: bcone@kauai.gov **Date:** February 9, 2021

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ Yes ☒ No

(If "Yes," please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description: ☐ New ☐ Repeal ☒ Amendment ☐ Compilation

II. Will the proposed rule(s) affect small business?

☒ Yes ☐ No (If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ Yes ☒ No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐ Yes ☒ No

(If "Yes" no need to submit this form.)

V. Please explain how the agency involved small business in the development of the proposed rules.

Presented to the SBRRB on January 21, 2021 for the pre-public hearing impact statement.

a. Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?

No. It has minimal impact to small business.

VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:

1. A description of how opinions or comments from affected small businesses were solicited.

Pre-public hearing at the SBRRB. Public hearing held on February 8, 2021 on via Microsoft Office TEAMS.

2. A summary of the public's and small businesses' comments.

SBRRB had no further comments as far as impacts to small businesses. We received a total of 5 public testimonies (oral and written). In general, they were supportive of the intent but thought it too restrictive.

3. A summary of the agency's response to those comments.

The Dept of Finance has reviewed the testimony and intends to move forward with the amendments as originally drafted. The new law/rules are no more restrictive than that of Maui County.

4. The number of persons who:

(i) Attended the public hearing: 2

(ii) Testified at the hearing: 2

(iii) Submitted written comments: 3

5. Was a request made at the hearing to change the proposed rule in a way that affected small business?

☐ Yes ☒ No

(i) If "Yes," was the change adopted? ☐ Yes ☐ No

(ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT
Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This statement may be found on the SBRRB Website at:
<http://dbedt.hawaii.gov/sbrrb-impact-statements- pre-and-post-public-hearing>

COUNTY OF KAUA'I DEPARTMENT OF FINANCE

Pursuant to the authority granted to the Director of Finance under the Kaua'i County Code Section 5A-11.2, the Director proposes to amend the Department of Finance Rules and Regulations as set out below. Portions of existing Rules and Regulations to be deleted are bracketed in bold with strikethrough. Proposed additions to existing Rules and Regulations are underlined and will appear in red. A public hearing on proposed amendments will be held on (DATE) via the Microsoft Teams online platform at 9:00 a.m., or soon thereafter.

DEPARTMENT OF FINANCE
COUNTY OF KAUA'I
REAL PROPERTY TAX DIVISION
HOME AND RELATED EXEMPTION RULES

Administrative Rules of the Director of Finance Relating to Home Exemptions and Related Exemptions under Section 5A-11.4 of the Kaua'i County Code 1987, as amended

Section RP-10.1 Purpose. These rules implement the provisions of Sec. 5A-11.4 of the Kaua'i County Code 1987, as amended, relating to home exemptions and related exemptions. These rules are further intended to ensure that the referenced provisions are applied in a uniform and equitable manner.

Section RP-10.2 Definitions. a. As used in these rules:

1. The term "director" shall mean the director of finance or ~~[his]~~ a designee.
 2. "Owner" shall be as defined in K.C.C. Sec. 5A-7.1[.] and K.C.C. Sec. 5A 1.1.
 3. "Care home" shall mean an adult residential care home, intermediate care facility, skilled nursing facility, acute care facility, assisted living facility, expanded adult residential care home as they are defined in Chapter 321 of the Hawai'i Revised Statutes.
 4. The term "temporarily" shall mean less than one year.
 5. "Commercial activities" shall mean use of the property to generate income, monetary gain or economic benefit in the form of money or money's worth at any time during the assessment year. Commercial activities shall include, but ~~[is]~~ are not limited to, any income-producing activities, short or long term ~~[rental]~~ occupancy of the property, use of the residential structure as home-office, or bed and breakfast operations.
 6. "Home exemption" shall mean the exemption as provided in K.C.C. Sec. 5A-11.4(a)
 7. "Homestead" shall mean the properties which are used exclusively as the owner's principal residence as defined in Section RP-10.4, and shall refer to one of the tax classifications in ~~[Sec. 5A-8.1]~~ Sec. 5A-6.4.
- b. Use of ~~[gender or]~~ number. Words importing the singular number may extend and be applied to several persons or things~~[-; words importing the plural may include the singular; and words importing the masculine gender may be applied to females].~~

Section RP-10.3 Eligibility for Home Exemption. An owner is entitled to a home exemption if the following requirements are met:

1. The property is owned and occupied as of the assessment date;
2. The owner's ownership is recorded at the Bureau of Conveyances in Honolulu on or before ~~[December 31]~~ September 30 preceding the tax year for which the exemption is claimed;

3. The owner files a claim for the home exemption and submits it to the Real Property Division on or before ~~[December 31]~~ September 30 preceding the tax year for which the exemption is claimed; [and]

4. The owner files an income tax return as a resident of the State of Hawai'i with a reported address within the County of Kaua'i the year prior to the effective date of the exemption. Non-resident and part-year resident State of Hawai'i income tax returns do not qualify for the home exemption;

~~[4.]~~ 5. The owner may not hold a homeowner's exemption or claim a principal home on any other property, whether on Kaua'i, in the state of Hawai'i, in another state, or in another country. Possession of multiple homeowners' exemptions for any given tax year shall result in the revocation of all homeowners' exemptions within the County of Kaua'i for those periods in which the multiple homeowners' exemptions were held. Adjustments and rollback taxes due to the loss or denial of an exemption shall be imposed in accordance to K.C.C. Sec. 5A-11.1(e) and 5A-3.4. Property owners may reapply for a homeowner exemption in the tax year following the revocation[.];

6. In the event that a married couple are living separate and apart in the state of Hawai'i, the qualified exemption may be split in half for a maximum period of two years; and

7. Property taxes related to this parcel are considered current. No home exemption shall be allowed if taxes on the property are delinquent unless the taxpayer has entered into a payment agreement with the Director and the taxpayer meets the terms of said agreement.

Section RP-10.4 Criteria for determination of "principal" home or residence. In addition to all other applicable requirements of K.C.C. Sec. ~~[4A-11.4]~~ 5A-11.4 and its implementing administrative rules, the director ~~[may]~~ will rely on the following criteria to determine whether real property is being used as the owner's "principal" home or residence:

1. The address used for Hawai'i residential tax returns, driver's license, car and voter registration, bills and correspondence;
2. Presentation of a valid Hawai'i Driver's License or Hawai'i State ID; and
3. Amount of time used at this residence, which shall be based on a more than ~~[181]~~ 270 calendar days per year (the calendar year shall begin on the date of assessment, October 1, and end on September 30 of the following year).

~~[4. Place of employment;]~~

~~[5. Where other family members reside;]~~

~~[6. The location of the owner's banks religious organizations or recreational clubs;]~~

~~[7. Other uses of property, such as commercial activities, leasing or renting.]~~

In addition, an owner who has temporarily moved into a care home that is licensed in Hawaii may have ~~[his]~~ the owner's property deemed a "principal" home or residence provided he does not rent the property or permit new individuals (other than immediate family members) to reside at the property and meets all other applicable requirements K.C.C. Sec. 5A-11.4.

Notwithstanding any law to the contrary, in the event the owner of real property vacates the home for which an exemption is granted and moves to another residence temporarily within the County during the renovation of the home, the real property will continue to be entitled to the exemption contained in this section provided that:

a. The taxpayer submits to the director a change in status report regarding vacating the home during renovations which identifies:

- i. The building permit number issued by the County building division;
- ii. The renovation start date as indicated on the building permit;

- iii. A verifiable address within the County where the taxpayer will reside during the renovation period and where the assessment notices will be mailed; and
- iv. The value attributed to the renovation will reset the assessment cap basis.

~~[Further, per K.C.C. Sec. 5A-1.4(a)(1)(E), the home exemption shall be applied only to the portion of the property being used exclusively as a home. Should the entire property be rented or used for commercial activities for any amount of time, the property shall not be considered an owner's "principal" home or residence.]~~

Section RP-10.5 Forms. To determine whether an owner qualifies or, if already received, continues to qualify for an exemption pursuant to K.C.C. Sec. 5A-11.4, the director may require an owner to complete a form that requests information relevant to the exemption and/or to produce relevant documents. Should the owner fail to complete the form ~~[entirety]~~ entirely or fail to provide the requested documents or fail to respond, the director may refuse to permit the exemption or, if applicable, disallow the exemption. After reviewing the form or documents, the director may require the owner to provide additional information, if the director deems it necessary to determine if the owner qualifies or continues to qualify for the exemption.

All requested forms shall be due within fifteen days of being mailed to the owner's last known address, unless otherwise provided by law. It is the owner's responsibility to keep the Real Property Division current as to the owner's last known address.

Section RP-10.6 Effect of Home Exemption. Once it is determined that an owner is entitled to a home exemption for ~~[his]~~ the property, the owner shall receive the exemption as provided K.C.C. Sec.5A-11.4(a) Where a home exemption is a prerequisite to other exemptions or special treatment, an owner may also receive those exemptions or special treatment as permitted in Chapter 5A, if applicable and if the owner meets all other necessary requirements. For example, pursuant to K.C.C. Sec. 5A-11.4(a) home exemptions may be granted to properties that qualify under the criteria for "principal" home or residence (RP-10.4), but which may also have additional uses. However, for the determination of the appropriate tax classification per K.C.C. Sec. 5A-~~[8.1(c)(2) & (4)]~~ 6.4(c) & (e), only those properties that are used **exclusively** as "principal" homes or residences shall qualify for the homestead tax class. Should the entire property be ~~[rented]~~ occupied for short-term accommodation or used for commercial activities ~~[for any amount of time]~~ at any time during the assessment year, the property shall not ~~[be considered an owner's "principal" home or residence]~~ qualify for a homestead tax classification.

Section RP-10.7 Appeals. The owner may appeal any disapproved exemption, or any determination that an exemption has been violated, just as an appeal from an assessment. Appeals shall be governed by applicable section of Chapter 5A, K.C.C., and may be taken to the board of review or be taken directly to the tax appeal court, without having to appeal the board of review.

Section RP-10.8 Severability. If any provision of these rules, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable.

III. Old Business – After Public Hearing

C. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 16 Chapter 71, “Certified Public Accountants and Public Accountants,” promulgated by DCCA

SMALL BUSINESS STATEMENT
"AFTER" PUBLIC HEARING TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD
(Hawaii Revised Statutes (HRS), §201M-3)

RECEIVED
By SBRRB at 8:41 am, Feb 05, 2021

Department or Agency: DCCA - Professional and Vocational Licensing Division

Administrative Rule Title and Chapter: Title 16 Chapter 71

Chapter Name: Certified Public Accountants and Public Accountants

Contact Person/Title: Relley Araceley - Executive Officer

Phone Number: 808-586-2692

E-mail Address: raracele@dcca.hawaii.gov **Date:** 2/4/21

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☒ **Yes** ☐ **No**

If "Yes," please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description: ☐ **New** ☐ **Repeal** ☒ **Amendment** ☐ **Compilation**

II. Will the proposed rule s affect small business?

☐ **Yes** ☒ **No** If "No," no need to submit this form.)

"Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

"Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ **Yes** ☒ **No**

If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2 d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? HRS §201M-2(a))

☐ **Yes** ☒ **No**

(If "Yes" no need to submit this form.)

V. Please explain how the agency involved small business in the development of the proposed rules.

The Board's various public meetings and the recent public hearing afforded interested individuals an opportunity to provide their opinions. The Board also consists of professionals and public members.

- a. **Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?**

N/A

VI. If the proposed rule s affect small business, and are not exempt as noted above, please provide the following information:

1. A description of how opinions or comments from affected small businesses were solicited.
2. A summary of the public's and small businesses' comments.
3. A summary of the agency's response to those comments.
4. The number of persons who:
 - i) Attended the public hearing: 2
 - ii) Testified at the hearing: 2
 - iii) Submitted written comments: 3
5. Was a request made at the hearing to change the proposed rule in a way that affected small business?
☐ Yes ☒ No
 - i If "Yes," was the change adopted? ☐ Yes ☐ No
 - (ii If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT
Phone: 808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This statement may be found on the SBRRB Website at:
<http://dbedt.hawaii.gov/sbrrb-impact-statements- pre-and-post-public-hearing>

Chair Cundiff noted that the Liquor Control Commission created a committee of representatives from the different classes of liquor licenses to review the amendments; feedback was provided and incorporated into the proposal.

Ms. Albitz made a motion to recommend that the proposed rules move on to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed New HAR Title 12 Chapter 45.4, State Fire Code, and Repeal of Chapter 45.3 State Fire Code, promulgated by Department of Labor and Industrial Relations (DLIR)

Discussion leader, Ms. Albitz stated that the rule changes were housekeeping in nature and also brought the Hawaii State Fire Code up to national standards and in compliance with the fire and building codes.

Administrative specialists, Messrs. Gary Lum and Lloyd Rogers and Captain Tim Caires of the Honolulu Fire Prevention Bureau explained specific changes to the rules. Among the changes are the deletion of permit and/or permit fee requirements as permits and fees will now be administrated by the counties. Changes also include the standardizing of fire inspections, testing, and maintenance for required fire protection systems.

Other changes include the adoption of the National Fire Protection Association Fire Code, 2018 edition, and the minimum requirements necessary to establish a reasonable level of fire and life safety. It is expected that the adoption of the new chapter will not increase the economic burden on small businesses, nor should there be a direct or indirect impact to DLIR's operations. Vice Chair Yamanaka acknowledged that the proposed changes should not be financially adverse to businesses on the Big Island.

Ms. Albitz made a motion to recommend that the proposed rules move on to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 71, Certified Public Accountants and Public Accountants, promulgated by Department of Commerce and Consumer Affairs (DCCA)

February 20, 2020
Meeting Minutes

Chair Cundiff explained that Gregg Taketa, Chair of the Board of Public Accountancy, and Relley Araceley, Executive Officer at DCCA, are on stand-by should there be any questions posed by the members.

The amendments will mostly entail non-substantive, housekeeping measures. While the changes are not expected to have an adverse effect on small businesses, members were interested as to whether any of the business stakeholders would have comments at the public hearing.

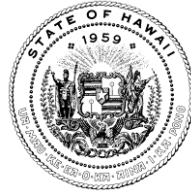
Mr. Ritchie made a motion to move the proposed rules on to public hearing. Mr. Shick seconded the motion, and the Board members unanimously agreed.

RECEIVED

By SBRRB at 8:43 am, Feb 05, 2021

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR

AHLANI K. QUIOGUE
LICENSING ADMINISTRATOR

BOARD OF PUBLIC ACCOUNTANCY

STATE OF HAWAII
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P.O. Box 3469
HONOLULU, HAWAII 96801
<http://cca.hawaii.gov/pvl>

February 4, 2021

MEMORANDUM

TO: Chairperson
Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism

FROM: Relley Araceley, Executive Officer
Board of Public Accountancy

SUBJECT: Small Business Post-Public Hearing Statement regarding Proposed Amendments to Chapter 71, Title 16, Hawaii Administrative Rules, Relating to Certified Public Accountants and Public Accountants

Attached for your review are the Ramseyer rule proposal to amend Chapter 16-71, HAR, relating to certified public accountants and public accountants. Please see below for a detailed list of the changes being proposed.

I. Proposed Rules:

The Board of Public Accountancy ("Board") proposes the following amendments to Hawaii Administrative Rules ("HAR") Chapter 16-71. The reasons for the changes are as follows:

Section 16-71-8 Definitions. This amendment proposes to use consistent language by adding the word "section" to all numerical sections indicated in the definition of "Public accounting practice". Currently all references to Hawaii Revised Statutes ("HRS") 466-7 do not include the term "section" or the section symbol "§" prior to the statutory section reference. As such, this amendment would create consistency throughout this section.

Section 16-71-19 Computer-based examination. This amendment to subsection (i) proposes to allow an examination candidate to retake a failed section in the same quarter if the

candidate's grade for the previous attempt of that same section has been released. For your information, the Board utilizes the uniform CPA examination conducted by the National Association of State Board of Accountancy ("NASBA"). An applicant must pass all four sections of the exam before being considered for licensure in the State.

NASBA recently changed their examination policy to allow for "continuous testing", which would allow an applicant to retake a failed section of the exam upon release of those failed exam scores. NASBA has approved these changes and will be made uniformly available across the United States of America beginning July 1, 2020.

The current language in section 16-71-19 stipulates that Hawaii-based applicants are unable to retake the failed section within the three-month period in which the applicant has an opportunity to take the exam. The Board proposes the amendments to allow Hawaii-based applicants the opportunity to participate in NASBA's new "continuous testing" policy.

Section 16-71-21 Experience. This amendment to subsection (c)(3) and (d) proposes to change the word license to "permit" to clarify that the supervisors of an applicant holds a permit rather than a license.

Currently, to engage in the practice of public accountancy in the State, a person must obtain both a CPA license and a permit to practice. (See, HRS section 466-7(a)) The Board proposes this amendment to ensure that applicants have experience under the supervision of a person with a PTP who performs public accountancy work as opposed to someone who simply has their CPA license and does not perform public accountancy work.

Section 16-71-33 Basic requirements of study hours. This amendment to subsection (a) proposes to add the requirement of completing a minimum of 20 hours of continuing professional education ("CPE") within each calendar year to ensure that licensees are earning CPE every year of the biennium. This 20-hour requirement is modeled after the Uniform Accountancy Act ("UAA") and has been adopted by many other states. The UAA is a model licensing law developed to provide a uniformed approach to regulating the accounting profession and is the foundation for various sections in HRS Chapter 466

Section 16-71-39 Sponsors whose programs automatically qualify. This amendment proposes to update the current names of sponsors from National Society of Public Accountants to "National Society of Accountants" and American Society of Women Accountants to "Accounting and Financial Women's Alliance".

For your information, the National Society of Accountants's name change occurred in 1995, while the Accounting and Financial Women's Alliance name change occurred in 2013.

Section 16-71-64 Other responsibilities and practices. This amendment to subsection (e) proposes to add "manager of a manager managed limited liability company" to clarify another legal form of firms and positions of responsibility for that firm.

II. Available for review

The proposed rules may be reviewed in person free of charge at the Professional and Vocational Licensing Division at 335 Merchant Street, Room 301, Honolulu, Hawaii 96813. In addition, the full text of the proposed rules is available and can be downloaded free of charge from the Lieutenant Governor's web site <https://ltgov.hawaii.gov/the-office/administrative-rules/> which will lead to the Department of Commerce and Consumer Affairs: http://www.hawaii.gov/dcca/main/har/proposed_har.

CPAC:RA:la

Attachment

BOARD OF PUBLIC ACCOUNTANCY
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF THE HEARING

Date: Friday, December 18, 2020

Time: 8:30 a.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-go3v.zoom.us/j/93378571351>

Present: Darryl T. Komo, CPA, Chairperson
Gary Y. Miyashiro, CPA, Vice-Chairperson
Christopher K. Lee, CPA, Member
Terrence H. Aratani, Member
Carleton L. Williams, CPA, Member
John W. Roberts, CPA, Member
Christopher Leong, Deputy Attorney General (“DAG”)
Relley W. Araceley, Executive Officer
Leanne Abe, Secretary
Micah Cadalzo, Secretary
Karyn Takahashi, Secretary to Catherine P. Awakuni Colón,
Director, DCCA
Terry Akasaka-Toyama, Secretary to Jo Ann M. Uchida
Takeuchi, Deputy Director, DCCA

Member(s) Edward L. Punua, CPA, Member

Excused: Brian Uemori, Member

Guest(s): Gregg Taketa, Public
Mike Ching
TJ Strickland
Sandy Bedford, Public
Call-in User_1, Public

Agenda: The agenda for this public hearing was filed with the Office
of the Lieutenant Governor, as required by Hawaii Revised
Statutes (“HRS”) section 92-7(b).

Call to Order: There being a quorum present, the hearing was called to
order by Chairperson Komo at 8:38 a.m.

Individuals wishing to provide public comment may do so at the beginning of each agenda item. Pursuant to HAR section 16-76-62(a)(5), the Board will limit an individual's public comments to five (5) minutes for each agenda item. Public comment on issues not on the agenda may be considered by the Board at a subsequent meeting. The Board is precluded from discussion or action on items raised by public comment that are not already on the agenda.

Introduction of
Board Members:

Chairperson Komo introduced himself, the members of the Board, and DCCA staff in attendance.

Purpose:

Amendments to Chapter 16-71, Hawaii Administrative Rules

Chairperson Komo announced that the purpose of this public hearing is to afford all interested persons an opportunity to submit data, views, or arguments, orally or in writing, to the proposed amendments to the rules of the Board of Public Accountancy.

Notice of Public
Hearing:

Chairperson Komo read the Notice of Public Hearing as it was published on Tuesday, November 17, 2020, in the Garden Island, Maui News, West Hawaii Today, Hawaii Tribune-Herald, and Honolulu Star Bulletin newspapers.

The purposes of the proposed amendments are to: use consistent language by adding the word "section" to all numerical sections indicated in the definition of "Public accounting practice"; allow an examination candidate to retake a failed section in the same quarter if the candidate's grade for the previous attempt of that same section has been released; change the word "license" to "permit" to clarify that the supervisor of an applicant for a CPA license must hold a permit-to-practice to ensure the applicant has experience under the supervision of a person who performs public accountancy work; add the requirement that a minimum of 20 hours of continuing professional education ("CPE") be completed within each calendar year to ensure that licensees are earning CPE every year of the biennium; update the current names of sponsors from National Society of Public Accountants to "National Society of Accountants" and American Society of Women Accountants to "Accounting and Financial Women's Alliance"; add "manager of a manager managed limited liability company" to clarify

other legal forms of firms and positions of responsibility; and make other non-substantive changes for purposes of style and clarity.

Chairperson Komo briefly described the procedure that would be followed at the public hearing. He stated that the Board will not be discussing any testimony during the public hearing or answering any questions which might be raised by the testimony at this time.

Chairperson Komo noted that the Board will be meeting, after this public hearing, to conduct its regular meeting. At that time, the Board will fully consider each testimony, and any written testimony, which is submitted regarding the proposed amendments to the Rules. He mentioned that the board intends to make its decision during the regular meeting and that the meeting is open to the public.

Testimony:

Chairperson Komo acknowledged three (3) written testimony submitted by the following:

1. Gregg Taketa, Taketa, Iwata, Hara & Associates, LLC,
2. Isaac Choy, State of Hawaii Director of Taxation
3. Marilyn Niwao, Legislative Committee Chairperson, Hawaii Association of Public Accountants

Chairperson Komo asked if any of the testifiers, in attendance, would like to provide oral testimony. There were none.

Chairperson asked if any of the public attendee would like to provide oral testimony. The following individual provided oral testimony:

1. TJ Strickland, Strickland Hardee PLLC

Mr. Strickland introduced himself and mentioned he was interested in today's meeting regarding captive insurance company. He mentioned he is located outside of Oahu and that he has clients

contacting him for services this year. However, he stated that there being no current reciprocity with Hawaii, he will need to obtain a Hawaii CPA license to provide services. He added that he has no plans of coming to Hawaii. He stated that there are few current vendors available for captive insurance companies are. He thinks that it will be helpful for captive insurance company and for the management insurance companies that there be a way for him to help clients without obtaining a Hawaii CPA license. He thanked the Board.

2. Mike Ching, Ernst & Young LLP

Mr. Ching thanked the Board for having him and allowing him to speak. He proceeded with introducing himself. He stated that he has a similar question or guidance from the Board that is tied to the last topic but not specifically for captive insurance company but clarification in general about whether a temporary permanent or permanent license are required to getting work done on the mainland for clients in Hawaii. Prior guidelines that he has seen, it was noted that as you are not physically in Hawaii, you do not need a temporary permit or permanent license. He wanted to confirm these with the Board.

Mr. Aracely stated that this topic Mr. Ching brought up will be discussed during the regular meeting as it is listed on the agenda.

Procedures After
Hearing:

Chairperson Komo asked if there was anyone else who wished to present testimony at this time. There were none. Chairperson Komo announced that discussion of and final

decision on the proposed amendments to the rules would be made by the Board at its regularly scheduled meeting to be convened immediately after the conclusion of this public hearing. Chairperson Komo thanked everyone for attending and participating in the public hearing.

Adjournment:

There being no further discussion, the public hearing adjourned at 8:50 a.m.

DRAFT

BOARD OF PUBLIC ACCOUNTANCY
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF THE MEETING

The agenda for this public hearing was filed with the Office of the Lieutenant Governor, as required by Hawaii Revised Statutes ("HRS" section 92-7(b)).

Date: Friday, December 18, 2020

Time: Immediately following the public hearing

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/93378571351>

Present: Darryl T. Komo, CPA, Chairperson
Gary Y. Miyashiro, CPA, Vice-Chairperson
Christopher K. Lee, CPA, Member
Terrence H. Aratani, Member
Carleton L. Williams, CPA, Member
John W. Roberts, CPA, Member
Christopher Leong, Deputy Attorney General ("DAG")
Relley W. Araceley, Executive Officer
Leanne Abe, Secretary
Micah Cadalzo, Secretary
Karyn Takahashi, Secretary to Catherine P. Awakuni Colón,
Director, DCCA
Terry Akasaka-Toyama, Secretary to Jo Ann M. Uchida
Takeuchi, Deputy Director, DCCA

Member(s) Edward L. Punua, CPA, Member

Excused: Brian Uemori, Member

Guest(s): Mike Ching
TJ Strickland
Sandy Bedford
Call-in User_1

Agenda:

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawaii Revised Statutes ("HRS") section 92-7(b).

A brief video was played to explain procedures for this virtual meeting and how members of the public can participate and interact with the Board during the meeting.

Call to Order:

Chairperson Komo proceeded with roll call. Chairperson Komo, Vice-Chairperson Miyashiro, Mr. Lee, Mr. Aratani, Mr. Williams, and Mr. Roberts confirmed they were present. Mr. Punua and Mr. Uemori were excused.

There being a quorum present, the meeting was called to order at 8:55 a.m. by Chairperson Komo.

Chairperson Komo provided verbal instructions to attendees on how to connect to the meeting via internet or through phone access. He reminded attendees that all microphones will be muted. If anyone would like to speak, they should raise their hand and when called upon they will be limited to five minutes of testimony per agenda item.

Approval of the
Minutes of the
October 30, 2020
Board Meeting:

Chairperson Komo asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

After discussion, it was moved by Mr. Aratani, seconded by Vice-Chairperson Miyashiro, and unanimously carried to approve the October 30, 2020 meeting minutes.

Applications:

Chairperson Komo asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

At 9:00 a.m., it was moved by Mr. Aratani, seconded by Mr. Roberts, and unanimously carried to enter into Executive Session to consider and evaluate personal information relating to individuals applying for licensure in accordance with HRS section 92-5(a)(1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with HRS section 92-5(a)(4). (Note: Board and staff moved to Teams.)

EXECUTIVE SESSION

At 9:11 a.m., it was moved by Mr. Aratani, seconded by Vice-Chairperson Miyashiro, and unanimously carried for the Board to move out of Executive Session.

Chairperson Komo proceeded with roll call. All Board members were present.

A. CPA Certification

After discussion, it was moved by Mr. Aratani, seconded by Mr. Williams, and unanimously carried to approve the following applications for certification:

- 1) AVALLONE, David J.
- 2) BARTHEL, Melanie Rae
- 3) CORNELL, Kent T.
- 4) GILBERT, Robert L.
- 5) MOSHIRZADEH, Kian
- 6) SWORD, Curtis
- 7) WIOLI, Brandon W.

The Board deferred the following applicant to the next board meeting, as they were not able to evaluate his application at this time.

- 1) PARK, Chang JE

B. Consideration for application

- 1) Alaa Eldin Ismail requested for application and acceptance for CPA licensure

Mr. Williams stated that the Board received Mr. Ismail's email correspondences but it was not clear on what the question was. Mr. Williams questioned Mr. Araceley if Mr. Ismail had applied for certification.

Mr. Araceley stated that Mr. Ismail is requesting if he is able to be licensed based on his credentials. He is also requesting for a waiver/exemption from CPA exam scores that are needed for licensing.

Mr. Williams inquired if Mr. Ismail had turned in an application. Mr. Araceley confirmed there was none.

After discussion, it was decided to inform Mr. Ismail to apply for his license and the Board will then review his application.

Standing Committee Report:

Chairperson Komo asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

A. Exam Committee

1) Ratification of 2020 Hawaii candidate exam scores

Executive Officer Araceley requested and received numbers from NASBA. He presented the statistics for 2020 testing window as follows:

Number of Passing First Time Candidates: 13
27% of total

Number of Passing Re-exam Candidates: 35
72% of total

Number of International Candidates: 1

Total Passing Candidates: 48

After discussion, it was moved by Mr. Aratani, seconded by Vice-Chairperson Miyashiro, and unanimously carried to ratify the 2020 Hawaii candidate examination scores.

Executive Officer's Report:

Chairperson Komo asked if any members of the public would like to provide oral testimony on this agenda item. There were none at this time.

Executive Officer Araceley stated that both attendees, Mr. Ching and Mr. Strickland, sent email correspondence regarding the following:

A. Does an audit report of a captive insurance company

domiciled, registered, and physically located in Hawaii need to be done by a HI licensed CPA/firm?

Executive Officer Araceley asked if any members of the public would like to provide oral testimony on this agenda item.

Mr. Ching raised his hand and was recognized by Chairperson Komo to present oral testimony

Mr. Ching briefly introduced himself. He stated that he wanted himself to be available for any questions regarding the guidelines and clarifications he is seeking from the Board that was listed in his email correspondence to Mr. Araceley. Mr. Ching requested clarification from the Board regarding work to be performed by his colleagues in the mainland. He noted that per his findings, if the work is not physically being performed in Hawaii, then the CPA does not need obtain a temporary permit or permanent license to permit-to-practice.

Mr. Roberts asked Mr. Ching if a report will be issued by their firm Honolulu office or from another Ernst and Young ("E&Y") office location. Mr. Ching answered it will probably be issued from another E&Y office. To clarify, Mr. Ching stated that one of his groupings, that happens to be captive insured company domiciled, in Cayman Islands, performed work with captive-insured companies across the US and just so happens to be domiciled in Cayman Islands. Reports are issued by the Cayman island office or under affiliated offices not legally part of U.S. but they all conducted by CPAs.

There were no further questions from the Board.

Mr. Strickland raised his hand and was recognized by Chairperson Komo to present oral testimony. Mr. Strickland briefly introduced himself. He noted that his firm, located and licensed in North Carolina, is currently working with captive insurance companies across the States with reciprocity. They received permission from their State's department of insurance,

and when necessary, obtain a business registration, permit excise tax and etc., He noted that this will be his first time trying to get a CPA license at another state. He stated it would be ideal for him if Hawaii had a reciprocity like the other States or there'd be efficient means for him to be able to work with captive insured company domiciled in Hawaii. He noted that there is limited amount of vendors for CPA services for captive insured companies. He stated that opening these services will be beneficial.

Chairperson Komo thanked Mr. Ching and Mr. Strickland after providing each of their oral testimony and asked the Board if they had any further questions. There were none.

Discussion ensued regarding whether an audit report of a captive insurance company domiciled, registered, and physically located in Hawaii or a company in general located outside of Hawaii need to be done by a Hawaii licensed CPA firm.

After discussion, the Board decided to defer the decision to next Board meeting after DAG Leong further research into Hawaii's statutes and regulations regarding this matter.

Executive Officer Araceley requested to have further discussion in the interim with Mr. Ching and DAG Leong to discuss this agenda while still being compliant with Hawaii's law. Chairperson Komo and DAG Leong agreed.

B. Is it possible to have the "CPA" next a licensed CPAs name if they do not wish to hold themselves out as a CPA and do not have a permit-to-practice?

Executive Officer Araceley asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

Executive Officer Araceley stated that based on current rules and laws, to have the "CPA" designation next to a licensed CPA's name, a permit-to-practice is

required which then requires a firm-permit-to-practice or tied to one. Due to individuals inciting that in the past, it was possible to use "CPA" designation if you cite that you are not in public practice or do not have permit-to-practice. Seeking clarification from the Board, Mr. Araceley asked if:

- 1) Is that possible still?
- 2) Was it ever actually possible?

Discussion ensued with the Board, regarding these questions. Mr. Araceley cited Hawaii Revised Status Section: 466-10 (d)(1) which states:

(d) Nothing contained in this chapter shall prohibit any person:

(1) Who holds a current license of certified public accountant issued under this chapter from assuming and using the title and designation "certified public accountant" or "CPA"; provided that if the person does not also hold a current permit to practice issued under this chapter, the person shall clearly indicate in assuming and using said title that the person does not hold the person's self out to be in the practice of public accountancy;

Mr. Williams commented that there are also CPA ethical issues about being a CPA and not holding yourself out.

After discussion, the Board agreed to keep the process of using "CPA" designation, as long as it is cited that the CPA does not hold a current permit to practice as stated in HRS Section 466-10 (d)(1).

C. Oregon State Board survey on firm registration

Executive Officer Araceley asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

Executive Officer Araceley stated that this survey was sent from Oregon State Board to NASBA for quick poll and asked the Board for their input.

Discussion ensued with Board regarding the survey reviewal.

Executive Officer Araceley inquired with the Board's input for one of the survey's question:

- 1) Has your Board discussed whether firms such as H & R Block should be registered?

Discussion ensued and the Board agreed to indicate that while it may have been discussed in the past with the old Board members, the current Board did not have any discussion whether firms such as H & R Block should be registered.

Old Business:

Chairperson Komo asked if any members of the public would like to provide oral testimony on this agenda item. There were none. Chairperson Komo acknowledged the three (3) written testimony received that are in favor of the amendment.

A. Hawaii Administrative Rules Chapter 71 amendments

After discussion, it was moved by Mr. Aratani, seconded by Mr. Roberts and unanimously carried to accept the amendments to Hawaii Administrative Rules Chapter 71.

New Business:

Chairperson Komo asked if any members of the public would like to provide oral testimony on this agenda item. There were none.

A. Peer Review Oversight Committee Legislation for 2021

Executive Office Araceley stated that this bill is similar to the bill that was introduced last legislative session. Mr. Araceley commented that the ending of the bill may post some concerns due to the language used, it leaves the bill open ended. There were no further comments from the Board.

B. Public notary requirement for Certificate of Competence

Executive Officer Relley seeks clarification from the Board regarding the three (3) Certificate of Competence that applicants must submit, which is cited as one of the license requirements listed in the HAR/HRS. One of the requirements is that those certificates are to be notarized. During these times, some applicants brought up their concerns at the Licensing Branch about the difficulty of acquiring notary. Mr. Araceley inquired if this policy was created by the Board previously or if Department of Commerce and Consumer Affairs ("DCCA") Professional and Vocational Licensing ("PVL") Division decided on it as this requirement is currently absent from Hawaii's Laws and Rules and also:

1. Board has knowledge of the history of public notary requirement?
2. Whether or not, because it is absent from the Laws and Rules, will the Board waive the public notary requirement for a certain period of time?

Chairperson Komo inquired what the other Board's current requirements for Certificate of Competence during these times.

Discussion ensued regarding the requirement for certificate of competence to be notarized during these current times and situation.

After discussion, the Board agreed to defer this to the next meeting and requests further information before providing a response. Executive Officer Araceley will inquire with other Boards' current requirements.

Next Board Meeting:

Friday, January 29, 2021

8:30 a.m.

Virtual Videoconference Meeting Zoom Webinar

Announcements:

Executive Officer Araceley informed the Board to reach out to him should they want anything to be discussed. Mr.

Araceley also informed the Board that today will be the last time both Ms. Takashi and Ms. Akasaka-Toyoma are attending their virtual board meeting and thanked them for their help and support with the board's virtual meetings. The Board will continue on with the remote-virtual meetings.

Adjournment: There being no further discussion, the meeting adjourned at 10:03 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Relley W. Araceley

/s/ Micah Cadalzo

Relley W. Araceley
Executive Officer

Micah Cadalzo
Secretary

RWA:mc

12/28/20

- ☐ Minutes approved as is.
- ☐ Minutes approved with changes. See minutes of.

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 71

CERTIFIED PUBLIC ACCOUNTANTS AND PUBLIC ACCOUNTANTS

Subchapter 1 General Provisions

- §16-71-1 Objective
- §16-71-2 Biennial renewal; continuing professional education in ethics or professional conduct
- §16-71-3 Notification and filing of names and addresses and changes
- §16-71-4 Evidence of authority to practice
- §16-71-4.5 Minimum insurance requirements for a professional corporation

Subchapter 2 Definitions

- §16-71-8 Definitions
- §16-71-9 Repealed
- §16-71-10 Repealed

Subchapter 3 License of Certified Public Accountant

- §16-71-14 Issuance
- §16-71-15 Application for license
- §16-71-16 Competence, trustworthiness, and fairness (references)
- §16-71-17 Education
- §16-71-18 Examination
- §16-71-19 Computer-based examination
- §16-71-19.1 Examination misconduct
- §16-71-20 Repealed
- §16-71-21 Experience
- §16-71-22 Knowledge of laws and rules

Subchapter 4 Permit to Practice

§16-71-24	Permit to practice
§16-71-25	Repealed
§16-71-26	Control and reporting
§16-71-27	Temporary permit to practice

Subchapter 5 Continuing Professional Education

§16-71-31	Basic concept
§16-71-32	Persons covered
§16-71-33	Basic requirements of study hours
§16-71-34	Hours which qualify
§16-71-35	Deficiency in hours and carryover hours
§16-71-36	Program classifications
§16-71-37	Requirements for group programs
§16-71-38	Requirements for individual self-study programs
§16-71-39	Sponsors whose programs automatically qualify
§16-71-40	Repealed
§16-71-41	Requirements for approval by the board
§16-71-42	Repealed
§16-71-43	Duration of approval
§16-71-44	Repealed
§16-71-45	Information requirements
§16-71-46	Exceptions
§16-71-47	Certification to other jurisdiction
§16-71-48	Exception for temporary permits

Subchapter 6 Repealed

§16-71-52	Repealed
§16-71-53	Repealed
§16-71-54	Repealed
§16-71-55	Repealed
§16-71-56	Repealed
§16-71-57	Repealed

Subchapter 7 Rules of Conduct

§16-71-61	Independence, integrity, and objectivity
§16-71-62	Competence and technical standards
§16-71-63	Responsibilities to clients
§16-71-64	Other responsibilities and practices

Subchapter 8 Practice and Procedure

§16-71-66 Administrative practice and procedure

Subchapter 9 Oral Testimony

§16-71-69 Oral testimony

SUBCHAPTER 1

GENERAL PROVISIONS

§16-71-1 Objective. This chapter has been adopted by the board of public accountancy, hereafter referred to as [~~"board,"~~] "board", and is intended to clarify chapter 466, Hawaii Revised Statutes, and to implement the administration thereof to the end that chapter 466, HRS, may be best effectuated and the public interest most effectively served. [Eff 1/1/74; am and ren §16-71-1, 6/25/81; am and comp; 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; am and comp] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-2 Biennial renewal; continuing professional education in ethics or professional conduct. (a) Each license of a certified public accountant and a public accountant shall be renewed biennially on or before December 31 of each odd-numbered year by submitting an application, paying a renewal fee, and attesting that the applicant has completed at least four hours of continuing professional education in ethics or professional conduct.

(b) Each permit to practice of a certified public accountant or public accountant shall be renewed biennially on or before December 31 of each odd-numbered year by submitting an application, paying a renewal fee, and complying with the continuing professional education requirements in section 16-71-33.

(c) Each firm permit to practice shall be renewed biennially on or before December 31 of each odd-numbered year by submitting an application and paying a renewal fee. [Eff 11/21/74; ren §1.02, 3/6/80; am and ren §16-71-2, 6/25/81; am and comp 6/8/84, am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp

1/22/01; am and comp 1/30/10; comp 2/13/12; comp
HRS §466-4) (Imp: HRS §§466-4, 466-5, 466-6)

] (Auth:

§16-71-3 Notification and filing of names and addresses and changes.

The current mailing address of each certified public accountant, registered public accountant, public accounting firm, and permit holder shall be registered with the board. The board shall be immediately notified in writing, of all changes. [Eff 1/1/74; ren §1.03, 3/6/80; am and ren §16-71-3, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-4 Evidence of authority to practice.

Each permit holder and public accounting firm shall at all times display evidence of the authority to practice, together with the certificate or registration and other evidence of current validation, in the permit holder's and public accounting firm's place of business. [Eff 1/1/74; ren §1.05, 11/21/74; ren §1.04, 3/6/80; am and ren §16-71-4, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-7)

§16-71-4.5 Minimum insurance requirements for a professional

corporation. (a) Pursuant to section 415A-11, HRS, a professional accounting corporation may provide security for professional responsibility by procuring errors and omissions insurance or a surety bond issued by an insurance company, or any combination thereof, as the corporation may elect.

(b) The minimum amount of errors and omissions insurance or surety bond issued by an insurance company for a professional accounting corporation shall be \$100,000 for each shareholder; provided that the minimum amount for each professional accounting corporation shall not be less than \$250,000. [Eff and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §§415A-11, 466-4)

SUBCHAPTER 2

DEFINITIONS

§16-71-8 Definitions. As used in this chapter:

"Continuing professional education" or "CPE" means a formal course or program of learning from a sponsor approved by the board as provided in this chapter.

"Incidental to a person's practice in such other state or country", as used in section 466-7(c)(4), HRS, means services rendered in this State by a non-licensee for work performed for a client outside the State, such as the audit of a Hawaii subsidiary of an out-of-state parent corporation or an audit of a Hawaii branch or division of an out-of-state partnership, joint venture, or individual proprietorship.

"Not in a public accounting practice" or "not in public practice" means the status of a certified public accountant licensed under section 466-5, HRS, or a public accountant licensed under section 466-6, HRS, or a public accounting firm under section 466-7, HRS, that:

- (1) Does not have a permit to practice under chapter 466, HRS, or this chapter; or
- (2) Is not engaged in any form of public accounting in this State.

"Public accounting practice" or "public practice" means performing, offering to perform, or holding oneself out as being able to perform for a fee one or more types of services involved in the practice of public accountancy by a certified public accountant licensed under section 466-5, HRS, who has a permit to practice under section 466-7, HRS, and section 16-71-24; a public accountant licensed under section 466-6, HRS, who has a permit to practice under section 466-7, HRS, and section 16-71-24; or by a public accounting firm that has a permit to practice under section 466-7, HRS, and section 16-71-24, including but not limited to:

- (1) A sole proprietor or sole practitioner engaged in public accounting practice;
- (2) A partner in a domestic or foreign general, limited, or limited liability partnership of certified public accountants or public accountants, or a combination of both;
- (3) A principal in a domestic or foreign professional accounting corporation;
- (4) A member of a domestic or foreign limited liability company;
- (5) A staff employee of a domestic or foreign public accounting firm as defined in section 466-3, HRS;
- (6) A domestic or foreign professional accounting corporation;

- (7) A domestic or foreign general, limited, or limited liability partnership of certified public accountants or public accountants, or a combination of both; or
- (8) A domestic or foreign limited liability company. [Eff 1/1/74; am and ren §16-71-8, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; am and comp] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-5, 466-6)

§16-71-9 Repealed.

§16-71-10 Repealed.

SUBCHAPTER 3

LICENSE OF CERTIFIED PUBLIC ACCOUNTANT

§16-71-14 Issuance. A person shall be entitled to the issuance of a license of certified public accountant upon application to the board and upon the satisfactory fulfillment of the requirements set forth in section 466-5(a), HRS. [Eff 1/1/74; am and ren §16-71-14, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-5)

§16-71-15 Application for license. After satisfactorily fulfilling the requirements of section 466-5(a), HRS, an application for a license of certified public accountant shall be filed in accordance with deadline dates established by the board and be accompanied by a fee as provided by the department of commerce and consumer affairs in chapter 16-53. [Eff 1/1/74; am and ren §16-71-15, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; am and comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §§466-5, 466-8)

§16-71-16 Competence, trustworthiness, and fairness (references).

Each applicant for a license of a certified public accountant shall submit three letters of reference, from persons not related to the applicant, attesting to the applicant's competence, trustworthiness, and fairness. [Eff 1/1/74; am and ren §16-71-16, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §§466-4, 466-5)

§16-71-17 Education. (a) An applicant for a license of certified public accountant shall:

- (1) Present satisfactory evidence that the applicant has received a baccalaureate degree from a university, college, or other four-year institution of learning accredited by a regional or national accrediting agency or association recognized by the Secretary of Education under the requirements of 20 United States Code section 1099b, as amended; or
- (2) Present satisfactory evidence that the applicant has received a baccalaureate or comparable degree from a foreign or U.S. university, college, or other four-year institution of learning and provide evidence that the baccalaureate or comparable degree qualifies the applicant for acceptance for an advanced degree at an accredited university, college, or other four-year institution of learning as specified in paragraph (1).

(b) An applicant who passed the examination prior to December 31, 2000, or who earned conditional credits prior to December 31, 2000 and subsequently passed the examination before the conditional credits expired, shall, in addition to meeting the requirements in subsection (a), present evidence of satisfactory completion of at least thirty semester hours of upper division or graduate level study comprised of such subjects as:

- (1) Accounting and auditing;
- (2) Taxation;
- (3) Management services;
- (4) Computer science;
- (5) Economics;
- (6) Business law;
- (7) Functional fields of business (e.g., finance, production, marketing, personnel relations, business organization, and business management); or

- (8) Other business related subjects as approved by the board, at an accredited university, college, or four-year institution of learning as specified in subsection (a).

The baccalaureate degree and the thirty semester hours of additional study shall have included a minimum of eighteen semester hours of upper division or graduate level accounting and auditing subjects.

In the event the additional studies of thirty semester hours are completed before the baccalaureate degree is conferred, the applicant shall furnish the board a letter from the university, college, or four-year institution of learning indicating that the additional studies were not counted toward the baccalaureate degree.

(c) An applicant who did not earn conditional credits prior to December 31, 2000 and who passed the examination after December 31, 2000, shall, in addition to meeting the requirements in subsection (a), present evidence of satisfactory completion of at least one hundred fifty semester hours of college education which shall include:

- (1) At least twenty-four semester hours in accounting courses, of which at least eighteen semester hours are upper division or graduate level accounting courses, including without limitation courses in:
 - (A) Financial accounting;
 - (B) Auditing;
 - (C) Taxation; and
 - (D) Managerial accounting; and
- (2) At least twenty-four semester hours in upper division or graduate level accounting or non-accounting business-related courses including without limitation courses in:
 - (A) Economics;
 - (B) Legal and social environment of business;
 - (C) Business law;
 - (D) Marketing;
 - (E) Finance;
 - (F) Organizational, group, and individual behavior;
 - (G) Quantitative applications in business;
 - (H) Communication skills;
 - (I) Business ethics;
 - (J) Globalization;
 - (K) Total-quality management;
 - (L) Computer science;
 - (M) Human relations; or
 - (N) Other business related courses.

(d) Each applicant shall present evidence satisfactory to the board that the requirements provided in section 466-5(f), or 466-5.5, HRS, as applicable, have been met. Satisfactory evidence shall take the form of a certified copy of a diploma, a certified transcript (date and degree granted), or a statement from a college official indicating that the applicant will graduate within one hundred twenty days after the examination.

(e) An applicant requesting an exemption from the educational requirements pursuant to section 466-5(c), HRS, shall arrange to provide direct confirmation to the board, from an appropriate source, that the applicant meets the requirements stated therein. [Eff 1/1/74; am 5/12/78; am 3/6/80; am and ren §16-71-17, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; am and comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §§466-5, 466-5.5)

§16-71-18 Examination. The examination prescribed in section 466-5(e), HRS, shall consist of the American Institute of Certified Public Accountants (AICPA) examination. [Eff 1/1/74; am and ren §16-71-18, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; am and comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-5)

§16-71-19 Computer-based examination. (a) The board shall use the examination prescribed by the AICPA, and shall make all necessary arrangements with the AICPA including the grading of the examination. The grades issued by the AICPA are advisory only and shall be ratified by the board to be official.

- (b) Applications for the examination shall be:
 - (1) Made on a form provided by the board and filed with the board by the date specified in the application form; and
 - (2) Accompanied by the examination fee specified in chapter 16-53 which shall not be refundable. For each section of the examination, the applicant shall pay a candidate testing fee that includes the actual fees charged by the AICPA, NASBA, and the test delivery service provider, as well as the application fees specified in chapter 16-53. An application shall not be accepted for consideration unless the application is completed properly, and the correct fee and supporting documents required under this chapter and chapter 466, HRS, are

attached to the application. In the case of an applicant who will complete the educational requirements within one hundred twenty days after the first examination, a transcript of the last semester shall be sent to the board immediately upon the school's release of the grades.

- (c) An applicant who, subsequent to filing a completed application, wishes to reschedule the applicant's appointment to take the examination, may reschedule at no charge if the applicant notifies the board at least thirty days prior to the date of the appointment to take the examination. [-] Rescheduling an appointment within thirty days before the date of the appointment to take the examination shall result in the assessment of a fee specified in chapter 16-53 which shall not be refundable. Failure to appear for the examination shall cause the forfeiture of all fees charged for the application and the examination.

- (d) Each applicant shall present evidence satisfactory to the board that the requirements set forth in section 466-5, HRS, have been met. Satisfactory evidence shall take the form of a certified copy of a diploma, a certified transcript (date and degree granted), or a statement from a college official indicating that the applicant will graduate within one hundred twenty days after the examination.

- (e) In the case of an applicant admitted to the examination on the expectation that the applicant will complete the educational requirements within one hundred twenty days, no grades shall be released and no credit shall be given for any part of the examination unless the educational requirement is met within one hundred twenty days of the examination and evidence of completion is submitted to the board.

- (f) The examination for the license of certified public accountant shall be held in the State at places designated by the board.

- (g) The board may apply reasonable security measures which are deemed necessary to confirm the identification of the applicants for examination. Notwithstanding any other provision of this chapter, the board may postpone a scheduled examination, the release of grades, or the issuance of a license due to a breach of examination security or examination misconduct.

- (h) An applicant shall attain a grade of at least seventy-five, or the uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board, in all sections of the examination in order to satisfactorily complete the entire examination.

- (i) An applicant may take the required sections of the examination individually and in any order. Credit for any section passed shall only be valid for eighteen months from the last day of the ~~[examination window]~~ quarter in which the

applicant took that section, and the applicant shall not be required to maintain a minimum score on any failed section(s). [~~An examination window means the three-month period in which an applicant has an opportunity to take the examination, and is comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed.~~]

- (1) An applicant shall pass all four sections of the examination within a rolling eighteen-month period, which begins on the last day of the ~~[examination window]~~ quarter in which the first section(s) passed is taken.
- (2) An applicant ~~[shall not]~~ can retake a failed section in the same ~~[examination window.]~~ quarter if the applicant's grade for the previous attempt of that same section has been released.
- (3) In the event all four sections of the examination are not passed within the rolling eighteen-month period, credit for any section(s) passed outside the rolling eighteen-month period shall expire and that section(s) shall be retaken.
- (j) The board shall accept conditional credits for any section or sections of the examination earned by the applicant and given under the authority of another state; provided that the applicant meets the educational requirements in section 466-5, HRS and further provided that the conditional credits for any section or sections earned in another state would have been given if the applicant had taken the section or sections in this State.
- (k) Notwithstanding any other provision to the contrary, conditional credits that have expired may be extended only for good and valid reasons as determined by the board.
- (l) The board may waive the examination for a license of certified public accountant in accordance with section 466-5(h), HRS; provided that with respect to the holder of a valid certificate or license of certified public accountant issued under the laws of another state, the board shall obtain written confirmation from an appropriate source in the other state that the certificate or license upon which an application for exemption is based is currently valid and in good standing.
[Eff 1/1/74; am 11/21/74; am 3/11/76; am 5/12/79; am and ren §16-71-19, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; am and comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; am and comp
] (Auth: HRS §466-4) (Imp: HRS §§466-5, 466-8)

§16-71-19.1 Examination misconduct. (a) Any misconduct by an applicant in applying for, taking, or subsequent to the examination shall be prohibited and shall invalidate any grade earned by an applicant on any section of the examination, and may warrant summary expulsion from the test site, disqualification from taking the examination permanently or for a specified period of time, and other action deemed appropriate by the board.

(b) Acts of misconduct include but are not limited to any of the following:

- (1) Falsifying or misrepresenting educational credentials or other information required for admission to the examination;
- (2) Failure to follow examination instructions or procedures;
- (3) Communication between applicants or with others inside or outside the test site while the examination is in progress;
- (4) Copying another applicant's answers or allowing one's answers to be copied;
- (5) Copying the examination questions or answers;
- (6) Substitution of another person to sit in the test site;
- (7) Reference to crib sheets, outlines, textbooks, or other material or electronic media (other than those provided to the applicant as part of the examination) inside or outside the test site while the examination is in progress;
- (8) Leaving the test site without prior approval;
- (9) Violating the nondisclosure prohibitions of the examination, or aiding or abetting another in doing so; or
- (10) Retaking or attempting to retake a section by an individual holding a valid license of certified public accountant, or by an applicant who has unexpired conditional credit for having already passed the same section, provided that this may be allowed if the individual has been expressly authorized by the board to do so.

(c) In any case where it appears that misconduct has occurred or is occurring, the board or its designee may either summarily expel the applicant involved in the misconduct from the examination, or move the applicant to a separate area in the test site where the applicant can be more closely observed. In any case where the board or its designee permits an applicant to continue taking the examination, it may:

- (1) Admonish the applicant;
- (2) Seat the applicant in a segregated location for the remainder of the examination;

- (3) Keep a record of the seat location and identifying information of the applicant, and the names and identifying information of other applicants in close proximity to the applicant; or
- (4) Notify the national candidate database, the AICPA, and the test delivery service provider of the circumstances, so that the applicant may be more closely monitored in future examination sessions.
- (d) In any case where the board believes that it has evidence that an applicant has been involved in examination misconduct, the board shall conduct an investigation and may conduct a hearing consistent with the provisions of section 16-71-66, chapter 16-201, and chapter 91, HRS.
- (e) If an applicant is refused credit for any section(s) of the examination, disqualified from taking any section, or barred from taking the examination in the future, the board or its designee may provide information on its findings and actions taken to the board of accountancy of another state or jurisdiction of the United States. [Eff and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §§466-5, 466-8)

§16-71-20 Repealed. [R 6/3/95]

§16-71-21 Experience. (a) Except as otherwise provided in section 466-5(d), HRS, an applicant shall have met one of the following experience requirements for a license:

- (1) Completion of one thousand five hundred chargeable hours in the performance of audits involving the application of generally accepted accounting principles and auditing standards earned while in public accounting practice; or
- (2) Completion of two years of professional experience in:
 - (A) Public accountancy practice as defined in section 466-3, HRS; or
 - (B) Private or government accounting or auditing work deemed by the board to be equivalent to professional experience in public accountancy practice.
- (b) The professional experience described in subsection (a)(2) shall:
 - (1) Include:
 - (A) The issuance of reports on financial statements involving the use of accounting or auditing skills, or both, and the

- application of generally accepted accounting principles or another comprehensive basis of accounting of the United States;
- (B) Management advisory or consulting services involving the use of accounting or auditing skills, or both; or
- (C) The preparation of tax returns or furnishing of advice on tax matters in accordance with applicable tax laws of the United States; and
- (2) Be obtained in one of the following categories, or any combination thereof:
 - (A) Public practice (i.e., working for a public accounting firm);
 - (B) Private sector or industry (i.e., working for a private business that is not a public accounting firm);
 - (C) Government (i.e., federal, state, county, etc.); or
 - (D) Education (i.e., working as an instructor teaching upper division or graduate level accounting or auditing subjects);

provided that the experience described in this subsection shall not be credited toward or apply to the thirty months of experience specified in section 466-5(b)(2), HRS. The thirty months of experience shall be gained in public practice and shall be applicable to the extent provided in section 466-5.5, HRS.

- (c) All experience required under this chapter and chapter 466, HRS, shall:
 - (1) Be non-routine, non-clerical, and non-ministerial in nature;
 - (2) Continually require independent thought and judgment on accounting or auditing matters;
 - (3) Be gained under the supervision of an individual who holds or has held a ~~[license]~~ permit in this State, or the equivalent in another jurisdiction, during the period of supervision; provided that an applicant may be immediately supervised by a ~~[non-licensee]~~ non-permit holder as long as the applicant ultimately reports to, is instructed by, is reviewed by, and is evaluated directly by an individual who holds or has held a ~~[license]~~ permit in this State, or the equivalent in another jurisdiction, during the period of supervision; and
 - (A) The applicant's supervisor shall have supervised, reviewed, and evaluated the applicant's work on a routine and recurring basis.
 - (B) Supervision may be facilitated through telecommunications systems and devices, and computers; provided that this

shall not be the primary method of supervision. A majority of the supervision shall be of a personal nature.

(C) To be acceptable, the supervision shall have been provided while the applicant was an employee of the same public accounting firm, entity, or agency that employed the supervisor; and

(4) Have been of a full-time nature, measured in terms of weeks. Full-time employment shall constitute at least thirty-five hours per week.

(d) Each applicant shall submit a detailed statement or form prescribed by the board which fully describes the applicant's experience to the satisfaction of the board. The statement or form shall be signed and certified by the applicant's present or former supervisor who holds or has held a [~~license~~] permit in this State, or its equivalent in another jurisdiction, during the period of supervision. [Eff and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; am and comp 6/3/95; am and comp 1/22/01; am and comp 1/30/10; am and comp 2/13/12; am and comp] (Auth: §466-4) (Imp: HRS §466-5)

§16-71-22 Knowledge of laws and rules. On the application, each applicant for a license of certified public accountant shall attest that the applicant has read and shall abide by the provisions of chapter 466, HRS, and this chapter. [Eff and comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-5)

SUBCHAPTER 4

PERMIT TO PRACTICE

§16-71-24 Permit to practice. (a) Individual permit to practice. For a permit to practice public accountancy, a certified public accountant licensed under section 466-5, HRS, or public accountant licensed under section 466-6, HRS, shall file an application and include an attestation that the applicant has fulfilled the continuing professional education requirements specified in subchapter 5.

(b) Firm permit to practice.

(1) For a permit to practice public accountancy, a firm engaged in public accounting in this State shall file an application listing the

principals of the firm (i.e., sole proprietor, partners in a partnership, shareholders of a professional accounting corporation, or members of a limited liability company).

- (A) As of the date of the application, a foreign or multi-state firm shall list only those principals who are residents of Hawaii or who are engaged in public accounting practice in this State.
 - (B) If the firm has no permanent office in this State, and no principals who are residents of this State or principals who are engaged in public accounting practice in this State, the firm shall list a principal with a current Hawaii individual permit to practice.
 - (C) The Hawaii business operations of a foreign or multi-state firm shall constitute a "firm" for purposes of the firm permit to practice under 466-7, HRS.
- (2) For a permit to practice public accountancy, a firm shall also provide its Hawaii general excise tax license number pursuant to section 237-9, HRS, on its application. Failure to provide a Hawaii general excise tax license number shall result in a denial of the firm permit to practice unless the firm attests that it does not and shall not have any gross income for engaging in the practice of public accounting in this State.
 - (3) All principals of a firm physically located in the State or that has a permanent office in the State shall be licensed as certified public accountants or public accountants with individual permits to practice under section 466-7, HRS.
 - (4) All foreign or multi-state firms engaged in public accounting practice in this State shall have at least one licensed certified public accountant or public accountant principal (i.e., sole proprietor, partner in a partnership, shareholder of a professional accounting corporation, or member of a limited liability company) with a permit to practice under section 466-7, HRS.
 - (5) The firm permit to practice shall be automatically terminated upon the death or loss of the permit to practice of all principals of a firm. The permit to practice for the firm may be reinstated upon the transfer of shares or membership interests to an individual who holds a permit to practice under section 466-7, HRS, or upon the reinstatement of the permit to practice of the sole proprietor, sole shareholder, or sole member of a limited liability company, as the case may be. [Eff 1/1/74; am and ren §16-71-24, 6/25/81; am and

comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95;
comp 1/22/01; am and comp 1/30/10; comp 2/13/12;
comp] (Auth: HRS §466-4) (Imp: HRS
§466-7)

§16-71-25 Repealed. [R 6/8/84]

§16-71-26 Control and reporting. (a) For the purpose of this section, a permit shall be obtained whether or not the public accounting practice is:

- (1) One of continuation from the prior year;
- (2) One to be entered into for the first time; or
- (3) One to be resumed after the permit to practice for the prior year or prior years has lapsed.

(b) For a 1974 permit, an applicant shall file an application prior to the commencement date of the applicant's public practice. For a permit to practice public accountancy for the year 1975 and each year thereafter, the applicant shall file an application, on a form prescribed by the board, at least thirty days prior to the date on which the permit shall become effective. [Eff 1/1/74; am and ren §16-71-26, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §§466-4, 466-7)

§16-71-27 Temporary permit to practice. An application for a temporary permit to practice, pursuant to section 466-7(c), HRS, shall be filed on a form prescribed by the board not later than sixty days prior to the commencement of the period covered by the application and shall be accompanied by a statement signed by an official of the jurisdiction which issued the certificate or registration, attesting that the same is currently valid, and unrevoked. The board may waive the filing deadline requirement for good cause. [Eff 1/1/74; am and ren §16-71-27, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

SUBCHAPTER 5

CONTINUING PROFESSIONAL EDUCATION

§16-71-31 Basic concept. The overriding consideration in determining whether or not a specific program qualifies as acceptable continuing professional education is whether the program is a formal program of learning which will contribute directly to the professional competence of a licensee in public practice. Each licensee shall determine the course of study to be pursued by the licensee within the guidelines established by this chapter. [Eff 1/1/74; am and ren §16-71-31, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-32 Persons covered. Any person in public accounting practice, regardless of the extent or degree of the practice, shall be covered by this chapter. [Eff 1/1/74; am and ren §16-71-32, 6/25/81; am and comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12]; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-33 Basic requirements of study hours. (a) For a permit to practice public accountancy covering each biennium, an individual applicant shall file, together with the application and payment of a fee for a permit to practice, an attestation as to the completion of at least eighty hours in continuing professional education programs. The eighty hours shall have been earned by the applicant within a twenty-four month period, and within twenty-four months prior to the date of the application for a permit to practice [-] , with a minimum of 20 hours earned within each calendar year.

(b) The applicant shall include within the eighty hours of continuing professional education programs, at least four hours of continuing professional education in the subject area of ethics or professional conduct; provided that these hours may also be used to simultaneously fulfill the requirements to renew the license of a certified public accountant or public accountant under section 16-71-2.

(c) The continuing professional education requirement of eighty hours may be prorated only for the permit obtained for the biennium period immediately following an individual's first permit to practice. The proration schedule shall be ten hours for each three month period of the biennium. The number of hours required shall be determined by the date on which the individual's first permit to practice was approved.

(d) An applicant whose first permit was approved in the first three months of the biennium shall earn eighty hours to obtain the subsequent permit; an applicant whose first permit was approved in the second three months of the biennium shall earn seventy hours to obtain the subsequent permit; and the total hours required shall decrease by ten hours for each three month period to a minimum of ten hours for an applicant whose first permit was approved in the last three months of the biennium period. [Eff 1/1/74; am and ren §16-71-33, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12]; am and comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-34 Hours which qualify. A minimum of fifty minutes shall constitute one continuing professional education hour. No credit for continuing professional education hours shall be allowed for time expended for study outside of the classroom nor shall additional credits be allowed for programs or courses repeated in any single year. The hours spent in continuing professional education programs shall be measured, as follows:

- (1) A one-day program, other than a university or college course, of not less than six hours shall equal eight continuing professional education hours;
- (2) One hour of attendance in a group program, other than a university or college course, shall equal one continuing professional education hour;
- (3) Each hour certified by the sponsor of an individual self-study program shall equal one continuing professional education hour;
- (4) An academic credit hour for a semester earned from an accredited university or college as specified in section 16-71-17(a)(1) shall equal fifteen continuing professional education hours, provided the credits were not counted toward certification;
- (5) An academic credit hour for a quarter earned from an accredited university or college as specified in section 16-71-17(a)(1) shall equal

ten continuing professional education hours, provided the credits were not counted toward certification;

- (6) Each university or college classroom hour in noncredit study shall equal one continuing professional education hour;
- (7) Each hour of university or college classroom work as a teacher, instructor, or lecturer shall equal one continuing professional education hour; however, the total cumulative continuing professional education hours earned by this method shall not exceed forty credit hours towards continuing professional education in any biennium; credit for the same course shall be awarded only once during a three year period;
- (8) Each hour spent at a group program, other than a university or college course, as a lecturer, discussion leader, or speaker shall equal one continuing professional education hour if the attendees of the group program shall be able to earn continuing professional education credit as a result of the attendance; and provided that the total cumulative hours earned by this method shall not exceed forty credit hours toward continuing professional education in any biennium; credit for the same course shall be awarded only once during a three-year period;
- (9) Fifty per cent of each hour spent as a reviewer at a formally sponsored inter-office or inter-firm quality review program; and provided that the credit shall not exceed twenty continuing professional education hours in any biennium;
- (10) Credit may be allowed for authoring articles and books published in any one year, provided that they contribute to the professional competence of the licensee. Credit for the publications may be given on a self-declaration basis; provided the credit shall not exceed twenty continuing professional education hours in any biennium; and
- (11) An applicant for a permit to practice shall be allowed eighty hours of continuing professional education credit for passing the AICPA examination for the two years following the date the applicant is notified of passing the examination. If an applicant has not taken credit in the two years following notification, the applicant shall be allowed to take credit for forty hours of continuing professional education during the third year following notification. Credit for passing the AICPA examination shall not be taken more than once. [Eff 1/1/74; am 11/21/74; am and ren §16-71-34, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12;

comp
§466-7)

] (Auth: HRS §466-4) (Imp: HRS

§16-71-35 Deficiency in hours and carryover hours. (a) In the event an applicant, except as provided in section 16-71-46, is found to be lacking in the eighty required continuing professional education hours as of December 31 of any odd-numbered year, the applicant shall be required to make up the deficient hours before the board approves the permit to practice.

(b) In the event the total continuing professional education hours is found to be in excess of the minimum requirements in any biennium, the applicant may carryover the excess to the following biennium's requirements, provided that the carryover shall be limited to forty hours. It shall be the responsibility of the licensee to maintain a record of any carryover credits. [Eff 1/1/74; am and ren §16-71-35, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-36 Program classifications. (a) The continuing ~~professional~~ professional education programs shall be classified into two categories, as follows:

- (1) Group programs as prescribed in section 16-71-37; and
 - (2) Individual self-study programs as prescribed in section 16-71-38.
- (b) Continuing professional education programs may include but are not limited to the following subjects:
- (1) Accounting (public, private, and governmental);
 - (2) Auditing (public, private, and governmental);
 - (3) Administrative practice;
 - (4) Social environment of business;
 - (5) Ethics or professional conduct;
 - (6) Business law;
 - (7) Business management and organization;
 - (8) Finance;
 - (9) Business valuation;
 - (10) Insurance;
 - (11) Management advisory services;
 - (12) Marketing;
 - (13) Behavioral ethics;
 - (14) Communications;

- (15) Personal development;
- (16) Personnel/human relations;
- (17) Computer science;
- (18) Economics;
- (19) Mathematics;
- (20) Production;
- (21) Financial planning;
- (22) Statistics; and
- (23) Taxes. [Eff 1/1/74; am and ren §16-71-36, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; am and comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-37 Requirements for group programs. Each group program shall:

- (1) Require attendance;
- (2) Be at least fifty minutes in duration;
- (3) Be conducted by a qualified instructor or discussion leader;
- (4) Through its sponsor, maintain written records of its attendees and of the program outline for a period of two years immediately following the conclusion of the program;
- (5) Through its sponsor, issue to each attendee written evidence of attendance with the suggested continuing professional education credit hours shown thereon, exclusive of any study or preparation time; and
- (6) Have a board approved sponsor. [Eff 1/1/74; am and ren §16-71-37, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-38 Requirements for individual self-study programs. Each individual self-study program shall:

- (1) Be conducted by a qualified board approved sponsor;

- (2) Through its sponsor, issue a certificate of completion, specifying subject matter and recommended continuing professional education credit hours; and
- (3) Through its sponsor, maintain written records of each student and of the program outline for a period of two years immediately following the conclusion of the program. [Eff 1/1/74; am and ren §16-71-38, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-39 Sponsors whose programs automatically qualify. Subject to compliance with the requirements of sections 16-71-37 and 16-71-38, the program sponsors who automatically qualify shall include:

- (1) All non-profit nationally recognized accounting and auditing associations, such as the American Institute of Certified Public Accountants, the National Society of [Public] Accountants, the ~~[American Society of Women Accountants,]~~ Accounting and Financial Women's Alliance, the National Association of Accountants, the National Association of State Boards of Accountancy, and their respective state societies, state boards, chapters, or branches;
- (2) Universities and colleges, provided that the institutions are accredited as specified under section 16-71-17(a)(1); or
- (3) Sponsors approved by another state board or by the National Association of State Boards of Accountancy's National Registry. [Eff 1/1/74; am 5/12/78; am and ren §16-71-39, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; am and comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-40 Repealed. [R 2/22/94]

§16-71-41 Requirements for approval by the board. Sponsors who do not automatically qualify shall be required to apply to the board on a form prescribed by the board prior to the program event. The sponsor shall comply with all requirements, policies, and standards set forth by the board. [Eff 1/1/74; am 11/21/74; am and ren §16-71-41, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-42 Repealed. [R 2/22/94]

§16-71-43 Duration of approval. The approval by the board of each group program sponsor and each individual self-study program sponsor shall expire on December 31 of every odd-numbered year. [Eff 1/1/74; am and ren §16-71-43, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-44 Repealed. [R 2/22/94]

§16-71-45 Information requirements. (a) Accompanying an application for a permit to practice, each certified public accountant and public accountant shall also file, on a form prescribed by the board, an attestation relating to the applicant's continuing professional education, setting forth the following:

- (1) Name of the course sponsor;
 - (2) Identification number of the course sponsor as issued by the National Association of State Boards of Accountancy's National Registry, the board, or any other board of accountancy in a state or jurisdiction of the United States;
 - (3) Title of the course;
 - (4) Date attended; and
 - (5) Hours claimed.
- (b) The board may randomly audit continuing professional education

hours and require an applicant to submit written evidence satisfactory to the board demonstrating compliance with the continuing professional education requirements provided in this chapter. [Eff 1/1/74; am and ren §16-71-45, 6/25/81; am and comp

6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4)
(Imp: HRS §466-7)

§16-71-46 Exceptions. The board may issue a permit to practice to any applicant who has not fully complied with the continuing professional education requirement in cases where failure by the applicant to fulfill the requirement has been caused by reason of:

- (1) Health, as certified by a medical doctor;
- (2) Military service on extended active duty with the armed forces of the United States; or
- (3) Other good and valid causes, as determined and approved by the board. [Eff 1/1/74; am and ren §16-71-46, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-47 Certification to other jurisdiction. The board shall certify, upon request, to any state as to the compliance with continuing professional education requirements under the laws of the State by any of its licensees. [Eff 1/1/74; am and ren §16-71-47, 6/25/81; comp 6/8/84; comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

§16-71-48 Exception for temporary permits. This subchapter governing continuing professional education shall not apply to any applicant for a temporary permit to be issued under section 466-7(c), HRS. [Eff 1/1/74; am and ren §16-71-48, 6/25/81; am and comp 6/8/84; comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; am and comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-7)

SUBCHAPTER 6 - REPEALED

§16-71-52 Repealed. [R 2/22/94]

§16-71-53 Repealed. [R 2/22/94]

§16-71-54 Repealed. [R 2/22/94]

§16-71-55 Repealed. [R 2/22/94]

§16-71-56 Repealed. [R 2/22/94]

§16-71-57 Repealed. [R 8/25/88]

SUBCHAPTER 7

RULES OF CONDUCT

§16-71-61 Independence, integrity, and objectivity. (a) A licensee shall not express an opinion on financial statements of an enterprise in a manner as to imply that the licensee is acting as an independent public accountant with respect thereto unless the licensee is independent with respect to the enterprise.

Independence shall be considered to be impaired if, for example:

- (1) During the period of the licensee's professional engagement, or at the time of expressing an opinion, the licensee:
 - (A) Had acquired or was committed to acquire any direct or material indirect financial interest in the enterprise;

- (B) Was a trustee, executor, or administrator of any trust or estate which had acquired or was committed to acquire any direct or material indirect financial interest in the enterprise;
 - (C) Had any joint closely-held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the enterprise; or
 - (D) Had any loan to or from the enterprise or any officer, director, or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms, and requirements:
 - (i) Loans obtained by the licensee which are not material in relation to the net worth of the borrower;
 - (ii) Home mortgages; and
 - (iii) Other secured loans, except those secured solely by a guarantee of the licensee;
- (2) During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee:
- (A) Was connected with the enterprise as a promoter, underwriter, voting trustee, director, or officer, or in any capacity equivalent to a member of management or of an employee; or
 - (B) Was a trustee of any pension or profit-sharing trust of the enterprise.

Paragraphs (1) and (2) are not intended to be all-inclusive examples.

(b) A licensee, in the performance of professional services shall not knowingly misrepresent facts, and shall not subordinate the licensee's judgment to others. In tax practice, however, a licensee may resolve doubt in favor of a client as long as there is reasonable support for the position.

(c) A licensee shall not pay a commission to obtain a client, nor accept a commission for a referral to a client of products or services of others. This subsection shall not prohibit payments for the purpose of all, or a material part, of an accounting practice or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of those persons.

(d) A licensee shall not offer or perform professional services for a fee which is contingent upon the findings or results of those services; provided this subsection shall not apply to professional services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the licensee, nor shall it apply to professional services for which the fees are to be fixed

by courts or other public authorities, and which are, therefore, indeterminate in amount at the time the professional services are undertaken.

(e) A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence or objectivity in rendering professional services. [Eff 3/6/80; am and ren §16-71-61, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-62 Competence and technical standards. (a) A licensee shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subsections (b) and (c).

(b) A licensee's name shall not be permitted to be associated with financial statements in a manner as to imply that the licensee is acting as an independent public accountant with respect to the financial statements unless the licensee is in compliance with applicable generally accepted auditing standards. Statement on Auditing Standards issued by the American Institute of Certified Public Accountants, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom shall be justified by those who do not follow them.

(c) A licensee shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if the financial statements contain any departure from an accounting principle which has a material effect on the statements taken as a whole, unless the licensee can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In that case, the licensee's report shall describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

(d) A licensee, in the performance of professional services, shall not permit the licensee's name to be used in conjunction with any forecast of future transactions in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the forecast. [Eff 3/6/80; am and ren §16-71-62, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §466-4)

§16-71-63 Responsibilities to clients. (a) A licensee, without the consent of the client, shall not disclose any confidential information pertaining to the client obtained in the course of performing professional services.

(b) Subsection (a) shall not:

- (1) Relieve a licensee of any obligations under section 16-71-62(b) and (c);
- (2) Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court;
- (3) Prohibit disclosures in the course of a quality review of a licensee's professional services; or
- (4) Preclude a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board.

(c) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish the information to an investigative or disciplinary body of the kind referred to in subsection (b).

(d) When an engagement is completed, a licensee shall furnish to a client or former client, upon request made within a reasonable time after original issuance or preparation of the document in question:

- (1) A copy of a tax return of the client;
- (2) A copy of any report, or other document, issued by the licensee to or for the client;
- (3) Any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of the documents when they form the basis of work done; and
- (4) A copy of the licensee's working papers, to the extent that the working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client, provided that a licensee may require that any fees due and owing from the client to the licensee for the licensee's services, where the client has agreed in advance to pay such fees, be paid before a copy of the licensee's working papers is provided to the client. [Eff 1/1/74; am and ren §16-71-63, 6/25/81; am and comp

6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95;
comp 1/22/01; comp 1/30/10; comp 2/13/12;
comp] (Auth: HRS §466-4) (Imp: HRS
§466-4)

§16-71-64 Other responsibilities and practices. (a) A licensee shall not commit any act which reflects adversely on the licensee's fitness to engage in the practice of public accountancy.

(b) A licensee shall not permit others to carry out on the licensee's behalf, either with or without compensation, acts which, if carried out by the licensee, would place the licensee in violation of the rules of conduct.

(c) A licensee shall not use or participate in the use of any form of public communication having reference to the licensee's professional services which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes, but is not limited to, a statement or claim which:

- (1) Contains a misrepresentation of fact;
- (2) Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
- (3) Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality;
- (4) Is intended or likely to create false or unjustified expectations of favorable results;
- (5) Implies educational or professional attainments or licensing recognition not supported in fact;
- (6) States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case;
- (7) Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will be charged; or
- (8) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(d) A licensee shall not by any direct personal communication solicit an engagement to perform professional services:

- (1) If the communication would violate subsection (c) and it is a public communication; or
- (2) By the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct.
- (e) A licensee shall not practice public accountancy under a firm name which is misleading in any way, as to the legal form of the firm, or as to the persons who are sole practitioners, partners, officers, managers of a manager managed limited liability company or shareholders of the firm, or as to any matter with respect to which public communications are restricted by subsection (c). A firm name shall not be used by a licensee in the practice of public accountancy unless the name has been registered with and approved by the board and the registration of the firm has been approved by the business registration division of the department of commerce and consumer affairs. However, names of one or more past partners or shareholders may be included in the firm name of a partnership or corporation or its successor, and a partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two years after becoming a sole practitioner.
- (f) A licensee, when requested, shall respond to communications from the board within thirty days of the mailing of the communications by registered or certified mail. [Eff 1/1/74; am and ren §16-71-64, 6/25/81; am and comp 6/8/84; am and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; am and comp] (Auth: HRS §466-4)
(Imp: HRS §466-4)

SUBCHAPTER 8

PRACTICE AND PROCEDURE

§16-71-66 Administrative practice and procedure. The rules of practice and procedure for certified public accountants and public accountants shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 10/23/87; am and comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §§91-2, 466-4) (Imp: HRS §§91-2, 466-4)

SUBCHAPTER 9

ORAL TESTIMONY

§16-71-69 Oral testimony. (a) The board shall accept oral testimony on any item which is on the agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony shall notify the board not later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purposes of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another pending proceeding, subject to the declaratory relief or rule relief provisions of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda." [Eff and comp 10/23/87; comp 2/22/94; comp 6/3/95; comp 1/22/01; comp 1/30/10; comp 2/13/12; comp] (Auth: HRS §466-4) (Imp: HRS §92-3)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 16-71, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

GREGG M. TAKETA, Chairperson
Board of Public Accountancy

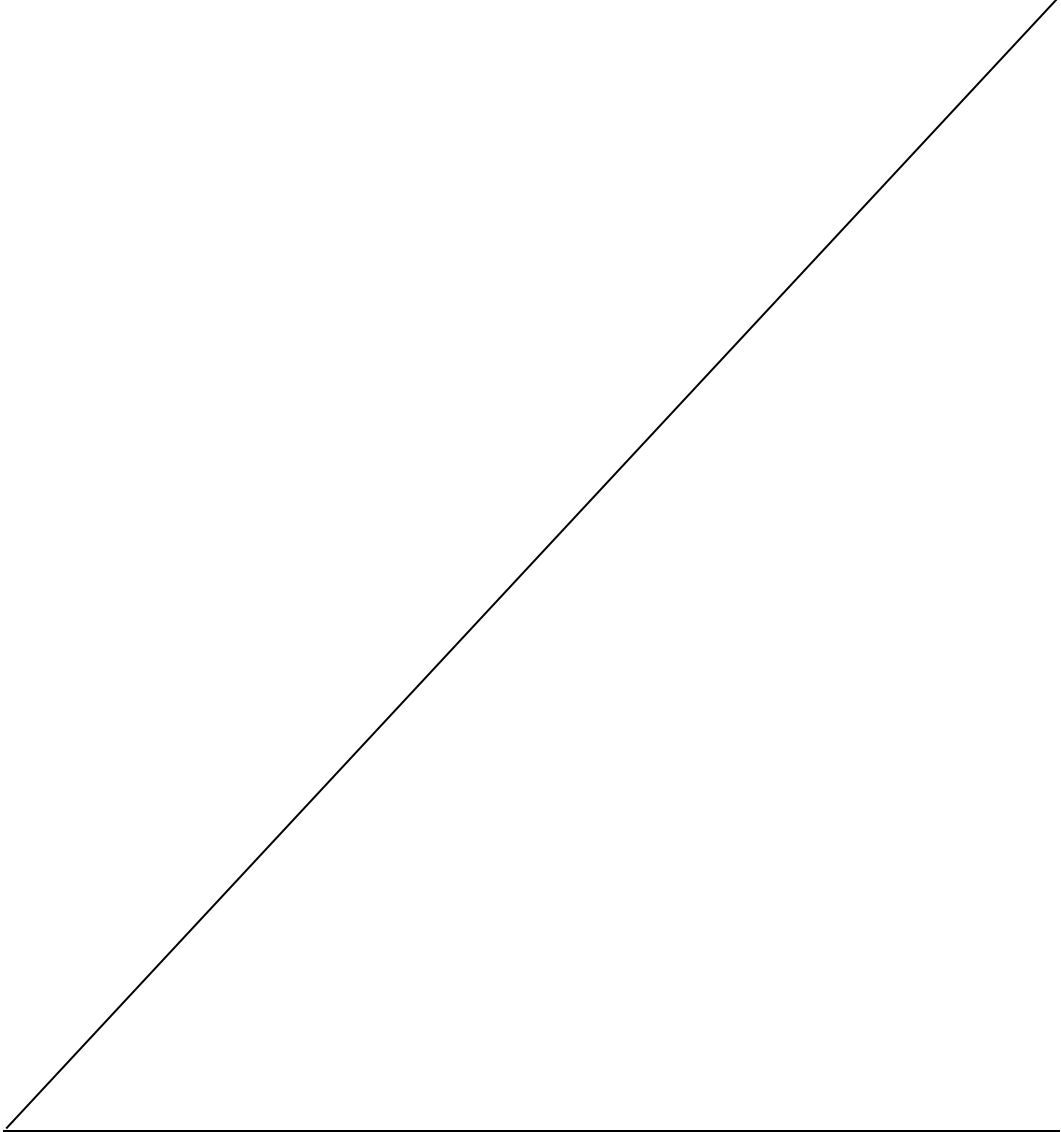
APPROVED AS TO FORM:

Deputy Attorney General

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-71
Hawaii Administrative Rules

1. Chapter 16-71, Hawaii Administrative Rules, entitled "Certified Public Accountants and Public Accountants", is amended and compiled to read as follows: _____



IV. New Business – Before Public Hearing

A. Discussion and Action on Proposed Amendments to HAR Title 11 Chapter 219, “Parking for Persons with Disabilities,” promulgated by DOH

PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD
(Hawaii Revised Statutes §201M-2)

Date: 2/11/2021

Department or Agency: Disability and Communication Access Board

Administrative Rule Title and Chapter: Title 11, Chapter 219

Chapter Name: Parking for Persons with Disabilities

Contact Person/Title: Bryan Mick/Program and Policy Development Unit Coordinator

E-mail: bryan.mick@doh.hawaii.gov Phone: 808-586-8131

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ Yes ☒ No

If "Yes," provide details: _____

I. Rule Description:

☐ New ☐ Repeal ☒ Amendment ☐ Compilation

II. Will the proposed rule(s) affect small business?

☒ Yes ☐ No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ Yes ☒ No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐ Yes ☒ No

(If "Yes" no need to submit this form.)

*

*

*

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.
A business with revenue from parking meters or unattended pay stations may need to adjust signs to indicate only vehicles displaying a disabled paid parking exemption permit (DPPEP) are exempt from payment for the first 2.5 hours. These businesses will lose revenue from vehicles displaying a DPPEP. Also, a business with 4 or less parking spaces will need to install a "no parking in access aisle" sign.
2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.
The cost to order and install a "no parking in access aisle" sign is estimated to be approximately \$200 per sign.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.
 - b. Amount of the proposed fee or fine and the percentage increase.
 - c. Reason for the new or increased fee or fine.
 - d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).
-
3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.
None.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

There were no methods used to reduce the impact on small businesses as there are no alternatives to posting the "no parking in access aisle" signs.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

There were no other alternatives or less stringent measures proposed by affected businesses to reduce direct or indirect costs.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

There were no other alternatives or less stringent measures proposed by affected businesses to reduce direct or indirect costs.

7. How the agency involved small business in the development of the proposed rules.

DCAB did not reach out to small businesses with four or less parking spaces because the cost to post a "no parking in access aisle" sign is nominal. The sign will benefit small business customers who require an unobstructed access aisle in order to enter or exit their vehicle.

- a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

There were no recommendations made.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

The proposed rules do not include provisions that are more stringent than those mandated by any comparable or related federal, state or county standards.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

* * *

Small Business Regulatory Review Board / DBEDT

Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>

SMALL BUSINESS IMPACT STATEMENT

Disability and Communication Access Board

Administrative Rule Chapter and Title: Chapter 219 Title 11: Parking for Persons with Disabilities

Name: Bryan K. Mick
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Title: Program and Policy Development Unit Coordinator
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A. Providing the following information described in Section 201M-2(b), HRS and in Governor's Administrative Directive 09-01.

B. RULE DESCRIPTION:

1. Amendment

2. Nature of Proposed Changes:

- a. Is the proposed rule authorized by a federal or state law or statute that does not require an agency to interpret or describe the requirements of the law or statute? No
- b. Is the proposed rule an emergency regulation? No
- c. Will the proposed rule affect small business because it:
 - 1) Will apply to "small business" defined as a for-profit enterprise with fewer than 100 full-time or part-time employees? Yes
 - 2) Will cause a direct or significant economic burden upon a small business? No
 - 3) Is directly related to the formation, operation, or expansion of a small business? No

3. Summarize the proposed rule(s) and reasons for the proposed rule(s):

The primary purposes of the proposed amendment is to establish issuance requirements for a fourth type of disability parking permit in conformance with the amendments to Chapter 291, Part III, Hawaii Revised Statutes (HRS), made by Act 87, Session Laws of Hawaii (SLH) 2019; to exempt parking spaces reserved for persons with disabilities in employee parking facilities from the signage requirements where such parking spaces are assigned to specific employees with disabilities; to exempt temporary parking spaces reserved for persons with disabilities or temporary access aisles from the striping requirements of the rules; and to require the posting of a "No Parking in Access Aisle" sign to identify the access aisle in parking lots with four or less parking spaces.

Currently, there are three types of disability parking permits issued to qualified applicants: long term placards, temporary placards, and special license plates. All three confer the privilege (1) to park in a parking space reserved for persons with disabilities and (2) to park in any metered parking space without payment of metered parking fees for a maximum of 2.5 hours or the maximum amount of time the meter allows, whichever is longer. Effective July 1, 2022, the three existing permits will confer only the privilege to park in a parking space reserved for persons with disabilities, and only the fourth permit, the disabled paid parking exemption permit, will confer the privilege (1) to park in a parking space reserved for persons with disabilities and (2) to park in any parking area where payment is required, via a parking meter or unattended pay station, without payment of parking fees for the first 2.5 hours or the maximum amount of time the meter allows, whichever is longer. To qualify for the new parking permit, a licensed practicing physician or advanced practice registered nurse must certify that the applicant is licensed to drive a motor vehicle and that the applicant cannot reach or operate parking meters or unattended pay stations because of the applicant's physical disability.

Limiting the parking fee exemption privilege to only persons who qualify for a disabled paid parking exemption permit will reduce the number of persons who fraudulently apply for a disability parking permit, illegally use the disability parking permit issued to a qualified person, or abuse their own permit, to take advantage of or to abuse the meter fee exemption privilege. In addition, persons who are issued a disabled paid parking exemption permit will exercise the new parking fee exemption privilege where payment is required at unattended pay stations without the concern of being penalized for nonpayment. Moreover, the limitation will help to bring about consistent parking facility policies and user expectations in parking facilities statewide.

The proposed amendment will exempt parking spaces reserved for persons with disabilities in employee parking facilities from the signage requirements of the rules where such parking spaces are assigned to specific employees with disabilities. This exemption will benefit employees with disabilities because other persons with a disability parking permit will not be attracted to park in their assigned parking spaces.

The proposed amendment will exempt temporary parking spaces reserved for persons with disabilities or temporary access aisles from the striping requirements of the rules. "Temporary" is defined as being used for seven consecutive days or less. This exemption will benefit entities that must provide temporary parking spaces and access aisles as required by the Americans with Disabilities Act (ADA) because they will not incur the expense of striping those elements which the rules would otherwise require.

The ADA requires parking lots with four or less parking spaces to have one parking space designed with an access aisle, which provides additional space to

allow persons with a mobility disability to deploy a sidemounted lift or to exit or enter a vehicle. However, to allow all persons to use that parking space, the ADA does not require posting signage to reserve the parking space for persons with disabilities. The proposed amendment would require posting a “No Parking in Access Aisle” sign to identify the ADA required access aisle. The sign is needed to deter the parking in the access aisle. Without the use of the adjacent access aisle, persons who need it cannot park and visit their destination.

C. Small Business Impact Statement pursuant to 201M-2(b):

1. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules and how they may be adversely affected.

The proposed amendment to issue a disabled paid parking exemption permit will not add a significant economic burden on businesses that derive revenue from parking meters or unattended pay stations because only a few thousand residents statewide are estimated to qualify for the disabled paid parking exemption permit. By contrast, roughly 100,000 residents will have a disability parking permit that does not exempt them from parking fees, effective July 1, 2021. The result will be a net gain in revenue for such businesses because the vast majority of permittees will be required to pay meter and unattended pay station parking fees.

The proposed amendment to exempt parking spaces reserved for persons with disabilities in employee parking facilities from the signage requirements of the rules, where such parking spaces are assigned to specific employees with disabilities, will have no effect on businesses.

The proposed amendment to exempt temporary parking spaces reserved for persons with disabilities or temporary access aisles from the striping requirements of the rules will benefit small businesses because they will not be required to incur the expense of adding striping to those spaces.

The proposed amendment to require the posting of a “No Parking in Access Aisle” sign to identify the ADA required access aisle will add a nominal expense for businesses that have parking lots with four or less parking spaces.

2. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

Businesses that derive revenue from paid parking through meters or an unattended pay stations will lose revenue from vehicles that display a disabled paid parking exemption permit while parked in their parking facility. However, as noted above, the same businesses will likely see a net increase in parking fee revenue because the vast majority of permittees will have a permit that does not confer the parking fee exemption and therefore will have to pay as result of the amendments

to Chapter 291, Part III, HRS, made by Act 87, SLH 2019 and the proposed amendments to the rules.

3. In dollar amounts, the overall aggregate increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, and other costs associated with compliance.

The cost to order and install a “No Parking in Access Aisle” sign is estimated to be approximately \$200 per sign.

4. The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including estimated total amount the agency expects to collect from any additionally imposed fees or penalties and the manner in which the moneys will be used.

The implementing agency will incur approximately \$4,500 to publish hearing notices in newspapers statewide about the proposed amendments to the rules, in addition to expenses related to procuring the new permit and related material, and public education about the changes to the parking program made by Act 87, SLH 2019.

The State and the counties will see an increase in parking meter revenue because roughly 100,000 persons who will have a disability parking permit that does not confer the fee exemption, as a result of Act 87, SLH 2019, will be required to pay. However, the implementing agency will not collect any money.

5. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques.

There were no methods used to reduce the impact on small businesses. The only proposed amendment that adds a cost to small businesses is the requirement to post a “No Parking in Access Aisle” sign to identify the ADA required access aisle in parking lots with four or less parking spaces. The requirement will benefit people with disabilities by keeping the access aisle unobstructed to give persons with mobility disabilities more space to deploy a sidemounted lift or to exit or enter a vehicle.

6. How the agency involved small business in the development of the proposed rules.

The implementing agency’s Standing Committee on Parking held six (6) meetings that were open to the public since beginning the process of amending the rules in

May 2018. Progressive drafts of the proposed amendments to the rules as approved by the Committee were made available to the public throughout the process. No comments were offered by small businesses.

7. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state or county standards, with an explanation of the reason for imposing the more stringent standard.

As noted above, the proposed rules require posting a “No Parking in Access Aisle” sign to identify the ADA required access aisle. The ADA does not require the sign. The implementing agency believes that the sign is needed to keep the access aisle unobstructed to give persons with mobility disabilities more space to deploy a sidemounted lift or to exit or enter a vehicle. Without the sign, persons who need the adjacent access aisle cannot park and visit their destination.

- D. Are there new or increased fees or fines? Yes
If yes, provide the following information:

1. Amount of the current fee or fine and last time it was increased.

Currently, a vehicle parked in the access aisle of a parking lot with four or less total parking spaces that does not have a “No Parking in Access Aisle” sign would not be subject to a citation. With the sign, the vehicle would be subject to a citation and fine ranging between \$250-\$500. The parking lot owner would not be subject to a fine.

2. Amount of the proposed fee or fine and percentage increased.

The new fine for an illegally parked vehicle would be between \$250-\$500.

3. Reason for the new or increased fee or fine.

This is the fine already established for parking in an access aisle that is adjacent to a parking space reserved for persons with disabilities under §291-57, HRS.

4. Will fee revert to general fund? If not, specify where and how monies will be allocated.

Yes.

5. Criteria used to determine amount of fee or fine.

The criteria used to determine the fine is provided for traffic infractions under Chapter 291D, HRS.

- E. Did the agency consult small businesses, departmental advisory committees, or were other small business organizations consulted during the drafting of the proposed rule?

Yes. The agency consulted its Standing Committee on Parking, which held six (6) meetings that were open to the public since beginning the process of amending the rules in May 2018.

If yes, were the recommendations, if any, incorporated into the proposed rule(s)?

Yes.

- F. Other alternatives or less stringent measures proposed by affected businesses to reduce direct or indirect costs and, if proposed, why those proposals were not adopted.

There were no other alternatives or less stringent measures proposed by affected businesses to reduce direct or indirect costs.

- G. Departmental Impact (i.e. fiscal, personnel, program)?

No.

- H. Impact on General Public (i.e. individuals, consumers, and large businesses)?

The proposed amendment will reduce the number of vehicles displaying disability parking permits that are parked in metered spaces to avoid payment of meter fees. The result will be an increase in the turnover and availability of metered parking spaces for all to use.

The proposed amendment will make parking lots with four or less parking spaces more usable by persons with disabilities who require an access aisle to enter or exit their vehicle.

- I. Impact on state economy?

No.

- J. Final result anticipated from the proposed rule change.

Reductions in the number of unqualified persons who apply for a disability parking permit to obtain the parking meter fee exemption privilege or to park in reserved parking spaces for persons with disabilities.

- K. Alternatives explored to carry out the statutory purpose other than rulemaking.

The implementing agency did not consider alternatives to amending the rules because amending the rules is the only legal option of making the proposed changes.

DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-219
Hawaii Administrative Rules

1. Chapter 11-219, Hawaii Administrative Rules, entitled "Parking for Persons with Disabilities", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 219

PARKING FOR PERSONS WITH DISABILITIES

\$11-219-1	Purpose and scope
\$11-219-2	Interpretation
\$11-219-3	Severability
\$11-219-4	Definitions
\$11-219-4.5	Agreement with counties to issue permits
\$11-219-5	Person with a disability parking application
\$11-219-6	Issuance of removable windshield placards, and temporary removable windshield placards, and special license plates
\$11-219-6.25	Issuance of disabled paid parking exemption permits

§11-219-6.5	Issuance of identification cards
§11-219-7	Replacement of lost, stolen, mutilated, or confiscated removable windshield placards, temporary removable windshield placards, special license plates, and identification cards
§11-219-7.25	Replacement of lost, stolen, mutilated, or confiscated disabled paid parking exemption permits
§11-219-7.5	Renewal of removable windshield placards, temporary removable windshield placards, and special license plates
§11-219-7.75	Renewal of disabled paid parking exemption permits
§11-219-8	Return of disability parking permits and identification cards
§11-219-9	Repealed
§11-219-10	Display of permit and presentation of identification card
§11-219-10.5	Repealed
§11-219-11	Nontransferability
§11-219-12	Penalties
§11-219-13	Reciprocity
§11-219-14	Signage and marking of parking space and access aisle

Historical Note: This chapter 11-219 is based substantially upon chapter 19-150. [Eff 12/31/84; am and comp 4/18/94]

The 4/18/94 compilation repealed §19-150-15.

§11-219-1 Purpose and scope. The purpose of these rules is to establish a uniform parking system to enhance access and the safety of persons with disabilities [~~which~~] that limit or impair their ability to walk, and to conform to 23 CFR Part 1235, and chapter 291, part III, HRS. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-1, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp 7/2/12; comp 9/25/15; comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-2 Interpretation. These rules shall be construed liberally and consistent with the purpose stated in section 11-219-1. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-2, am and comp 12/15/00; comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp 7/2/12; comp 9/25/2015; comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-3 Severability. These rules are declared to be severable and if any portion or the application thereof to any person, circumstance, or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons, circumstances, or property shall not be affected. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-3, am and comp 12/15/00; comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp 7/2/12; comp 9/25/15; comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-4 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Access aisle" means an accessible route adjacent to a parking space ~~[reserved]~~ designed for persons with disabilities that provides for clearances appropriate for the loading and unloading of mobility devices and qualified persons with disabilities from a vehicle parked in a parking space ~~[reserved]~~ designed for persons with disabilities.

"Advanced practice registered nurse" means a registered nurse who has met the qualifications for advanced practice registered nurse set forth in accordance with chapter 457, HRS.

"Certificate of disability" means a medical statement on the person with a disability parking application form signed by a licensed practicing physician or an advanced practice registered nurse who certifies that the person is a person with a disability as defined in this section.

"Disability parking permit" means a removable windshield placard, special license plates, temporary removable windshield placard, or disabled paid parking exemption permit.

"Disabled paid parking exemption permit" means a permit to be displayed on a dashboard or contained elsewhere on the vehicle, a code, or a two-sided, hanger style placard that indicates that the individual to whom the permit, code, or placard is issued pursuant to this chapter is licensed to drive a motor vehicle and not able to reach or operate a parking meter or unattended pay station because of a physical disability. Any placard issued under section 291-6.25 shall include on each side:

- (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a green shield;
- (2) An identification number;
- (3) A date of expiration; and
- (4) The words "State of Hawaii".

"Enforcement officer" means a police officer of the county, a commissioned volunteer enforcement officer of the county law enforcement agency, a state officer of a parking enforcement agency or a private security agent.

"International Symbol of Access" means the symbol adopted by the Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

"Invalid disability parking permit" means an expired or voided removable windshield placard, temporary removable windshield placard, special license plates, or disabled paid parking exemption permit.

"Issuing agency" means the disability and communication access board.

"Licensed practicing physician" means a doctor of medicine, naturopathy, osteopathy, or podiatry duly licensed and authorized to practice in the State of Hawaii in accordance with chapters 453, 455, 460, and 463E, HRS[~~-~~], or a commissioned medical officer in the United States armed forces.

"Parking meter" means a device located in the vicinity of a parking space for the purposes of extending parking privileges to persons for a certain number of minutes or hours upon the payment of the required change by a method allowed by the parking meter. The device shall record a certain number of minutes or hours determining the period of time for which parking privileges have been extended. The term "parking meter" shall include a multi-space parking meter device located in the vicinity of the parking spaces it regulates.

"Parking meter space" means any space ~~[which]~~ that is within a parking meter zone regulated by a parking meter, and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street or public parking area.

"Parking meter zone" means a street, portion of a street, or other public parking area established by

ordinance as a zone in which the parking of vehicles upon such street or other public parking area shall be regulated by parking meters.

~~["Parking permit" means the removable windshield placard, temporary removable windshield placard, or special license plates.]~~

"Parking space reserved for persons with disabilities" means a public or private parking space, including the access aisle, designated for the use of a person with a disability that is designed and constructed in compliance with the requirements of the federal Americans with Disabilities Act of 1990, as amended, and related rules and guidelines; and that is marked with a sign designating the parking space as reserved for persons with disabilities.

~~["Person with a disability" means a person who is limited or impaired in the ability to walk, and who, as determined by a licensed practicing physician or an advanced practice registered nurse:~~

- ~~(1) Cannot walk two hundred feet without stopping to rest due to a diagnosed arthritic, neurological, orthopedic, renal, oncological, or vascular condition;~~
- ~~(2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;~~
- ~~(3) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;~~
- ~~(4) Uses portable oxygen; or~~
- ~~(5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association.]~~

"Person with a disability" means a person with a disability that limits or impairs the ability to walk, and who, as determined by a licensed practicing physician, or an advanced practice registered nurse:

- (1) Cannot walk two hundred feet without stopping to rest, and who has been diagnosed with:
 - (A) An arthritic, neurological, orthopedic, renal, vascular, or oncological condition;
 - (B) Lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or
 - (C) A cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association; and
- (2) Because of a condition identified in paragraph (1):
 - (A) Cannot walk two hundred feet under the person's own power without stopping to rest;
 - (B) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or
 - (C) Uses portable oxygen.

"Person with a disability parking application" means a state form provided by the issuing agency that contains the certificate of disability and other necessary information required of all applicants for parking permits under section 11-219-5.

"Placard" means the removable windshield placard, ~~or~~ temporary removable windshield placard~~[-]~~ or disabled paid parking exemption permit.

"Private entity" means a private owner or lessee of a parking facility or site where invitation to the general public is expressed or implied, except where a private entity is also a religious entity.

"Public entity" means the State or any of its counties.

"Removable windshield placard" means a two-sided, hanger-style placard issued to a person who has been certified with a disability [~~which~~] that is expected to last six years in accordance with section 291-51, HRS, and [~~which~~] that includes on each side:

- (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a blue shield;
- (2) An identification number;
- (3) A date of expiration; and
- (4) The words "State of Hawaii".

"Sign designating the parking space as reserved for persons with disabilities" means a sign [~~which~~] that contains:

- (1) The words, "Reserved Parking";
- (2) The International Symbol of Access;
- (3) Words indicating that the space is reserved for parking by persons with disabilities who have a valid parking permit; and
- (4) The maximum fine for parking illegally in the space.

"Special license plates" means license plates issued to a person whose disability is expected to last for at least six years as certified by a licensed practicing physician or an advanced practice registered nurse. The license plates shall display the International Symbol of Access in a color that contrasts to the background, and in the same size as the letters and numbers on the plates.

"Temporary removable windshield placard" means a two-sided, hanger-style placard, issued to a person who has been certified with a temporary disability up to a period of six months and includes on each side:

- (1) The International Symbol of Access, which is at least two and one-half inches in height and is white on a red shield;
- (2) An identification number;
- (3) A date of expiration;
- (4) The words "State of Hawaii"; and
- (5) The word "TEMPORARY".

"Transaction fee" means those moneys collected by the counties for issuance of all temporary and replacement placards. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-4, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; am and comp 7/26/04; comp 8/19/06; am and comp 7/2/12; am and comp 9/25/15; am and comp] (Auth: HRS §291-56) (Imp: HRS §291-51; 23 CFR part 655, subpart F; 23 CFR part 1235)

§11-219-4.5 Agreement with counties to issue permits. (a) The counties are authorized to issue removable windshield placards, temporary removable windshield placards, and replacement placards on behalf of the issuing agency. The counties may retain any transaction fees collected.

(b) The issuing agency shall enter into agreement with the counties to reimburse the counties at a rate of \$12 per placard for the issuance of any removable windshield placards for which a transaction fee is not collected. [Eff 7/2/12; comp 9/25/15; comp] (Auth: HRS §291-56) (Imp: HRS §291-51; 23 CFR part 655, subpart F; 23 CFR part 1235)

§11-219-5 Person with a disability parking application. (a) In order to be considered for a disability parking permit and identification card, the applicant shall complete a person with a disability parking application form. The certificate of disability section of the form shall be completed by a

licensed practicing physician or an advanced practice registered nurse and shall be valid for no more than sixty days prior to ~~[expiration of the permit.]~~ submission of the form.

(b) Reasons for which a person with a disability parking application may be rejected shall include, but not be limited to the following:

- (1) Any portion of the person with a disability parking application is illegible or incomplete, or
- (2) There are discrepancies within any portion of the person with a disability parking application that may indicate fraudulent tampering.

(c) Individuals who belong to any of the following classes do not qualify for a parking permit based solely on that status:

- (1) Persons who have a visual impairment;
- (2) Persons who have a ~~[mental illness;]~~ behavioral, learning, intellectual, or developmental disability;
- (3) Persons who are old; or
- (4) Persons who are infants.

(d) The applicant shall present proof of being the person named on the person with a disability parking application form.

(e) The applicant shall submit the person with a disability parking application form in person unless specifically exempted for medical reasons by the certifying physician or an advanced practice registered nurse, in which case the applicant may authorize another person to submit the application in the applicant's stead. Proof that the applicant is the person named on the application form shall also be presented at the time of issuance. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-5, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; comp 8/19/06; am and comp 7/2/12; am and comp 9/25/15; am and comp] (Auth: HRS §291-56) (Imp: HRS §§291-51.5, 291-51.6, 291-52, 291-56; 23 CFR part 1235)

**§11-219-6 Issuance of [~~parking permits.~~]
removable windshield placards, temporary removable
windshield placards and special license plates.** (a)

For the applicant whose disability is expected to last for at least six years, as certified by a licensed practicing physician or an advanced practice registered nurse, the county shall:

- (1) Issue one removable windshield placard and one identification card;
- (2) Upon assurance that the vehicle is registered in the applicant's name and that the vehicle will be used primarily to transport the applicant, and upon payment by the applicant of an appropriate fee for the special license plates, and completion of any required forms as may be required by the county, shall issue special license plates and an identification card. The fee for the special license plates shall not be more than the regular license plates for the same vehicle class; and
- (3) Not issue more than one removable windshield placard to the applicant who also applies for, or already has, special license plates. At no time shall more than one set of valid special license plates be issued to a qualified person with a disability.

(b) For the applicant whose disability is temporary, as certified by a licensed practicing physician, the county shall:

- (1) Upon payment of a \$12 fee, issue a temporary removable windshield placard, and one identification card. The expiration date of this permit shall be based on the period of disability specified in the certificate of disability, and shall not exceed six months after date of issuance;
- (2) Upon request and payment of a \$12 fee, issue a second temporary removable windshield placard that shall have the same expiration

- date as the first temporary removable windshield placard; and
- (3) At no time issue more than two valid temporary removable windshield placards to a qualified person with a disability. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-6, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; am and comp 8/19/06; am and comp 7/2/12; am and comp 9/25/15; am and comp]
(Auth: HRS §291-56) (Imp: HRS §§291-51.5, 291-51.6, 291-52; 23 CFR part 1235)

§11-219-6.25 Issuance of disabled paid parking exemption permits. (a) The issuing agency shall issue one disabled paid parking exemption permit and identification card to each applicant who mails to the issuing agency a copy of the applicant's valid driver's license and a disabled paid parking exemption permit application form signed by a licensed practicing physician or advanced practice registered nurse which verifies that the applicant is a qualified person with a disability and cannot reach or operate parking meters or unattended pay stations because:

- (1) The applicant cannot reach above the applicant's head to a height of forty-two inches from the ground due to a lack of finger, hand, or upper extremity strength or mobility;
- (2) The applicant cannot approach a parking meter due to the use of a wheelchair or other mobility device; or
- (3) The applicant cannot manage, manipulate, and insert coins, bills, or cards in a parking meter or pay station due to a lack of fine motor control in both hands.
- (b) The disabled paid parking exemption permit shall have the same expiration as the removable

windshield placard, temporary removable windshield placard, or special license plates for which the applicant is eligible.

(c) Upon issuance of the disabled paid parking exemption permit, all removable windshield placard or temporary removable windshield placard(s) shall be invalidated and returned to the issuing agency pursuant to section 11-219-8. Special license plates shall remain valid or may be issued pursuant to 11-219-6(a)(2). Not more than one disabled paid parking exemption permit shall be issued to an applicant.

[Eff and comp] (Auth: HRS §291-55)

(Imp: HRS §291-51)

§11-219-6.5 Issuance of identification cards.

(a) The identification card shall indicate the applicable serial number of the disability parking permit, and shall have the same date of expiration as the disability parking permit issued to the person with a disability.

(b) A new identification card shall be issued with the second temporary removable windshield placard. The new identification card shall have the same expiration date as the first temporary removable windshield placard, and shall indicate the serial number of the second temporary removable windshield placard. [Eff and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; comp 8/19/06; am and comp 7/2/12; comp 9/25/15; am and comp] (Auth: HRS §291-56) (Imp: SLH 2001, Act 297, §1)

§11-219-7 Replacement of lost, stolen, mutilated, or confiscated ~~[parking permits]~~ removable windshield placards, temporary removable windshield placards, special license plates, and identification cards. The replacement permit(s) and identification card(s) shall have the same expiration date as the

permit(s) and identification card(s) that was lost, stolen, mutilated or confiscated. To replace a ~~[parking permit]~~ removable windshield placard, temporary removable windshield placards, special license plates, or an identification card that has been lost, stolen, mutilated, or confiscated, the person with a disability shall:

- (1) Submit to the county a new completed person with a disability parking application form that shall indicate whether the permit or identification card was lost, stolen, mutilated or confiscated. A new certificate of disability is not required if the permit is still valid;
- (2) Surrender any remaining items relating to the current parking permit, including the identification card, portion(s) of the mutilated placard, and remaining special license plate, to the issuing agency;
- (3) Complete all applicable forms, and pay the fees as required to the county, for special license plates, pay the fees as required by the county, in an amount not to exceed the fee for regular license plates for the same vehicle class; and
- (4) Pay \$12 to the county for a lost, stolen, or confiscated placard; or
- (5) Obtain from the county a replacement removable windshield placard or temporary removable placard in exchange for a mutilated removable windshield placard or temporary removable placard, at no cost.
[Eff 12/31/84; am and comp 4/18/94; ren from §19-150-7, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; am and comp 8/19/06; am and comp 7/12/12; comp 9/25/15; am and comp]
(Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-7.25 Replacement of lost, stolen, mutilated, or confiscated disabled paid parking exemption permits. (a) To replace a lost, stolen, mutilated, or confiscated disabled paid parking exemption permit or identification card, the person with a disability shall:

- (1) Submit to the issuing agency a new completed disabled paid parking exemption permit application form that shall indicate whether the permit or identification card was lost, stolen, mutilated, or confiscated. A new certificate of disability is not required if the permit is still valid;
- (2) Surrender any remaining items relating to the disabled paid parking exempt permit, including the identification card or portion(s) of the mutilated placard, to the issuing agency; and
- (3) Pay \$30 to the issuing agency for a lost, stolen, or confiscated disabled paid parking exemption permit. If an application is for a replacement of a lost, stolen, or confiscated disabled paid parking exemption permit for a second time, pay to the issuing agency \$60. If an application is for a replacement of a lost, stolen, or confiscated disabled paid parking exemption permit for a third time, pay to the issuing agency \$90. If an application is for a replacement of a lost, stolen, or confiscated disabled paid parking exemption permit for any subsequent time, pay to the issuing agency \$120; or
- (4) Obtain from the issuing agency a replacement disabled paid parking exemption permit in exchange for a mutilated disabled paid parking exemption permit at no cost. [Eff and comp] (Auth: HRS §291-56) (Imp: HRS §291-5)

**§11-219-7.5 Renewal of ~~[parking permits.]~~
removable windshield placards, temporary removable
windshield placards, and special license plates.** (a)

Permits may be renewed up to sixty days prior to the expiration of the permit.

(b) Proof that the applicant is the person named on the person with a disability parking application form is not required.

(c) To renew a removable windshield placard a completed person with a disability parking application form shall be submitted to the issuing agency by mail. The issuing agency ~~[will]~~ shall process the person with a disability parking application form and issue a new removable windshield placard and identification card to the applicant by mail. The certificate of disability section of the form shall be completed by a licensed practicing physician or an advanced practice registered nurse and shall be valid for no more than one-hundred eighty days from the date of certification.

(d) To renew a temporary removable windshield placard a completed person with a disability application form shall be submitted to the county in person. The county ~~[will]~~ shall process the person with a disability parking application form, collect applicable fees, and issue a new temporary removable windshield placard and identification card to the applicant. The certificate of disability section of the form shall be completed by a licensed practicing physician or an advanced practice registered nurse and shall be valid for no more than sixty days from the date of certification.

(e) Special license plates require recertification of disability every six years to retain the use of the special license plates.

- (1) If the person with a disability has also been issued a removable windshield placard~~[,]~~ or disabled paid parking exemption permit, the renewal of removable windshield placard or disabled paid parking

exemption permit ~~[will]~~ shall also extend the ability to use the special license plates.

- (2) If a person with a disability does not have a removable windshield placard, a completed person with a disability application form shall be submitted to the county. The county ~~[will]~~ shall provide the applicant a new identification card indicating the special license plate number and expiration date.
- (3) If a person with a disability has been issued one set of special license plates and one six year removable windshield placard, both expire at the same time. [Eff and comp 12/24/01; comp 1/23/03; comp 7/26/04; am and comp 8/19/06; am and comp 7/2/12; comp 9/25/15; am and comp]
(Auth: HRS §291-56) (Imp: HRS §291-56; SLH 2001, Act 297, §1; 23 CFR part 1235)

§11-219-7.75 Renewal of disabled paid parking exemption permits. (a) A disabled paid parking exemption permit may be renewed up to sixty days prior to the expiration of the permit.

(b) To renew a disabled paid parking exemption permit, a completed renewal application form and a legible copy of a valid driver's license shall be submitted to the issuing agency by mail. The issuing agency shall process the form and issue a new disabled paid parking exemption permit and identification card to the applicant by mail. The certificate of disability section of the form shall be completed by a licensed practicing physician or an advanced practice registered nurse and shall be valid for no more than one-hundred eighty days from the date of certification.

(c) If a person with a disability has been issued one set of special license plates and one disabled paid parking exemption permit, both expire at the same time. [Eff and comp] (Auth: HRS §291-56) (Imp: HRS §291-5)

§11-219-8 Return of disability parking permits and identification cards. (a) The removable windshield placards, temporary removable windshield placards, disabled paid parking exemption permits, and identification cards are the property of the issuing agency and shall be returned to the issuing agency:

- (1) Upon the death of the person with a disability; or
- (2) When the person is no longer qualified per section 291-51, HRS; or
- (3) When the removable windshield placard ~~[and],~~ temporary removable windshield placards, or disabled paid parking exemption permit ~~[are expired]~~ expire.

(b) Special license plates shall be returned to the county:

- (1) Before the transfer of ownership of a vehicle to another party. The transfer of ownership for a vehicle shall not be recorded until the special license plates assigned to that vehicle have been replaced or returned to the county;
- (2) When the special license plates expire;
- (3) When the person no longer meets section 291-51, HRS requirements; or
- (4) Upon death of the permittee. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-8, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; am and comp 7/12/12; comp 9/25/15; am and comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

§11-219-9 REPEALED. [R 7/26/04]

§11-219-10 Display of permit and presentation of identification card. (a) The [~~removable windshield placard [or] temporary removable windshield placard]~~ disability parking permit shall be displayed in a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror at all times when parking. When a placard cannot be hung securely from the rearview mirror, the placard shall be displayed on the dashboard.

(b) The person with a disability operating or being transported in the vehicle being parked or left standing shall carry a current identification card and present it to any enforcement officer upon request. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-10, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; comp 8/19/06; am and comp 7/2/12; comp 9/25/15; am and comp]
(Auth: HRS §291-56) (Imp: HRS §291-54; 23 CFR part 1235)

~~[§11-219-10.5 Metered parking privileges. Any vehicle displaying special license plates, a removable windshield placard, or a temporary removable windshield placard issued under this part shall be permitted to park, without payment of metered parking fees, in any parking metered space for a maximum of two and a half hours or the maximum amount of time the meter allows, whichever is longer.]~~ [Eff 7/2/12; comp 9/25/15; R] (Auth: HRS §291-56) (Imp: HRS §291-55; 23 CFR part 1235)

§11-219-11 Nontransferability. ~~[The removable windshield placard, temporary removable windshield placard, special license plates,]~~ Disability parking permits and identification ~~[card]~~ cards are nontransferable. (a) No person other than the person with a disability shall park or cause to stand a motor vehicle displaying a placard or special license plates[÷

(1) ~~In]~~ in a parking space reserved for persons with disabilities, as defined in section 11-219-4~~[, or]~~.

~~[(2) In order to otherwise receive parking privileges under section 291-55, HRS, except when it is used in connection with the transport of the person with a disability.]~~

(b) A ~~[removable windshield placard, temporary removable windshield placard, or special license plates]~~ disability parking permit may be confiscated by a law enforcement officer or commissioned volunteer enforcement officer of the county law enforcement agency for any unauthorized use. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-11, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; am and comp 7/26/04; comp 8/19/06; comp 7/2/12; comp 9/25/15; am and comp] (Auth: HRS §291-56) (Imp: HRS §291-53; 23 CFR part 1235)

§11-219-12 Penalties. Any person who knowingly falsifies an application for a ~~[removable windshield placard, temporary removable windshield placard, special license plates,]~~ disability parking permit and identification card, or any renewal or replacement thereof, shall be subject to suspension or revocation of the ~~[placard, special license plates]~~ disability parking permit or identification card. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-12, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; am and comp 7/26/04; comp 8/19/06; comp 7/2/12; comp 9/25/15; am and comp] (Auth: HRS §291-56)

(Imp: HRS §291-53; HRS §291-57; SLH 2001, Act 297 §1; 23 CFR part 1235)

§11-219-13 Reciprocity. The State of Hawaii, counties, and private property owners shall recognize valid ~~[removable windshield placards, temporary removable windshield placards, and special license plates]~~ disability parking permits which have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

- (1) Utilize parking spaces reserved for persons with disabilities~~[7]~~; or
- (2) Exercise other parking privileges afforded by the State, counties, or private property owners for the benefit of persons with disabilities. [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-13, am and comp 12/15/00; am and comp 12/24/01; comp 1/23/03; comp 7/26/04; comp 8/19/06; comp 7/2/12; comp 9/25/15; am and comp] (Auth: HRS §291-56)

(Imp: HRS §291-51.7; 23 CFR part 1235)

§11-219-14 Signage and marking of parking space and access aisle. (a) Parking spaces designated as reserved for persons with disabilities shall be identified as follows:

- (1) The parking space shall ~~[not]~~ be posted with the following notice signs:
 - (A) A reserved parking sign as shown on the "Typical Reserved Parking Sign for Persons with Disabilities" (Exhibit 1) and "Typical Reserved Parking Sign for Van Accessible Stall" (Exhibit 2), dated 10/1/11 at the end of this chapter and made a part of this section. The reserved parking sign

shall be located at the front of each parking space reserved for persons with disabilities, except for parallel spaces, where the sign may be posted on the curb side of the access aisle. The reserved parking sign shall be mounted at minimum ~~[60]~~ sixty inches above the finished floor to the bottom of the reserved parking sign. The reserved parking sign shall be mounted on a free-standing pole, on a wall, or suspended overhead. The reserved parking sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the access aisle or parking space.

- (B) A parking space designed to accommodate a passenger van, shall have a van-accessible sign as shown on Exhibit 2 at the end of this chapter. The van-accessible sign shall be mounted immediately below the reserved parking sign at minimum ~~[60]~~ sixty inches above the finished floor to the bottom of the van-accessible sign, unless technically infeasible because of low ceiling height, in which case the van-accessible sign shall be mounted at the highest point above the finished floor.
- (C) In residential facilities, where parking spaces are assigned to specific residential dwelling units, or to individuals, identification of accessible parking spaces and access aisles shall not be required.
- (D) In employee parking facilities, where parking spaces are assigned to specific employees, identification of accessible parking spaces and access aisles shall not be required.

- (2) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to dimensions, location, and slope, the parking space shall be striped on two sides of the parking space. The striping is not required at the curbside of the space. The striping shall be four [~~4~~] inches in width and shall be clearly visible in contrast to the parking surface.
- (b) Access aisles shall be identified as follows:
 - (1) Van access aisle shall be posted with a no parking sign as shown on the "Typical Access Aisle Sign" (Exhibit 3) dated 10/1/11, at the end of this chapter and made a part of this section. The no parking in access aisle sign shall be mounted at minimum [~~60~~] sixty inches above the finished floor to the bottom of the no parking sign, unless technically infeasible because of low ceiling height, in which case the sign shall be mounted at the highest point above the finished floor. The no parking in access aisle sign shall be on a free-standing pole, on a wall, or suspended overhead. The sign shall not be mounted so as to obstruct ingress to, or egress from, a vehicle parked in the parking space. The no parking in access aisle sign shall be located at the front of each access aisle, except for parallel parking spaces, where the sign may be posted on the curbside of the access aisle. The no parking in access aisle sign shall not be placed in the access aisle or parking space. Access aisles, other than van access aisles, shall not require additional signage.
 - (2) Beyond the requirements imposed by the Americans with Disabilities Act Accessibility Guidelines with respect to

dimensions, location, and slope, access aisles shall be outlined except on the curb side of the space and shall be diagonally striped within the outline. The outline and diagonal striping shall be four inches in width. The diagonal striping shall be at a [45] forty-five degree angle to the outline and shall be clearly visible in contrast to the parking surface. The phrase "No Parking" may be painted in the access aisle using letters not less than twelve inches in height, in the portion of the access aisle farthest away from the side where a vehicle would approach the access aisle and shall be clearly visible in contrast to the parking surface.

(c) A temporary parking space reserved for persons with disabilities or a temporary access aisle, defined as being used as such for seven consecutive days or less, shall comply with all requirements under the Americans with Disabilities Act, but shall not be subject to the striping requirements of this section.

~~[(c)]~~ (d) If a private or public entity provides for the towing of illegally parked vehicles, the signage shall comply with the requirements of section 290-11, HRS." [Eff 12/31/84; am and comp 4/18/94; ren from §19-150-14, am and comp 12/15/00; am and comp 12/24/01; am and comp 1/23/03; comp 7/26/04; am and comp 8/19/06; am and comp 7/2/12; comp 9/25/15; am and comp] (Auth: HRS §291-56) (Imp: HRS §291-56; 23 CFR part 1235)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 11-219, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

ELIZABETH A. CHAR, M.D.
Director of Health

APPROVED AS TO FORM:

Deputy Attorney General

EXHIBIT 1

TYPICAL RESERVED PARKING SIGN FOR PERSONS WITH DISABILITIES
(10/1/11)



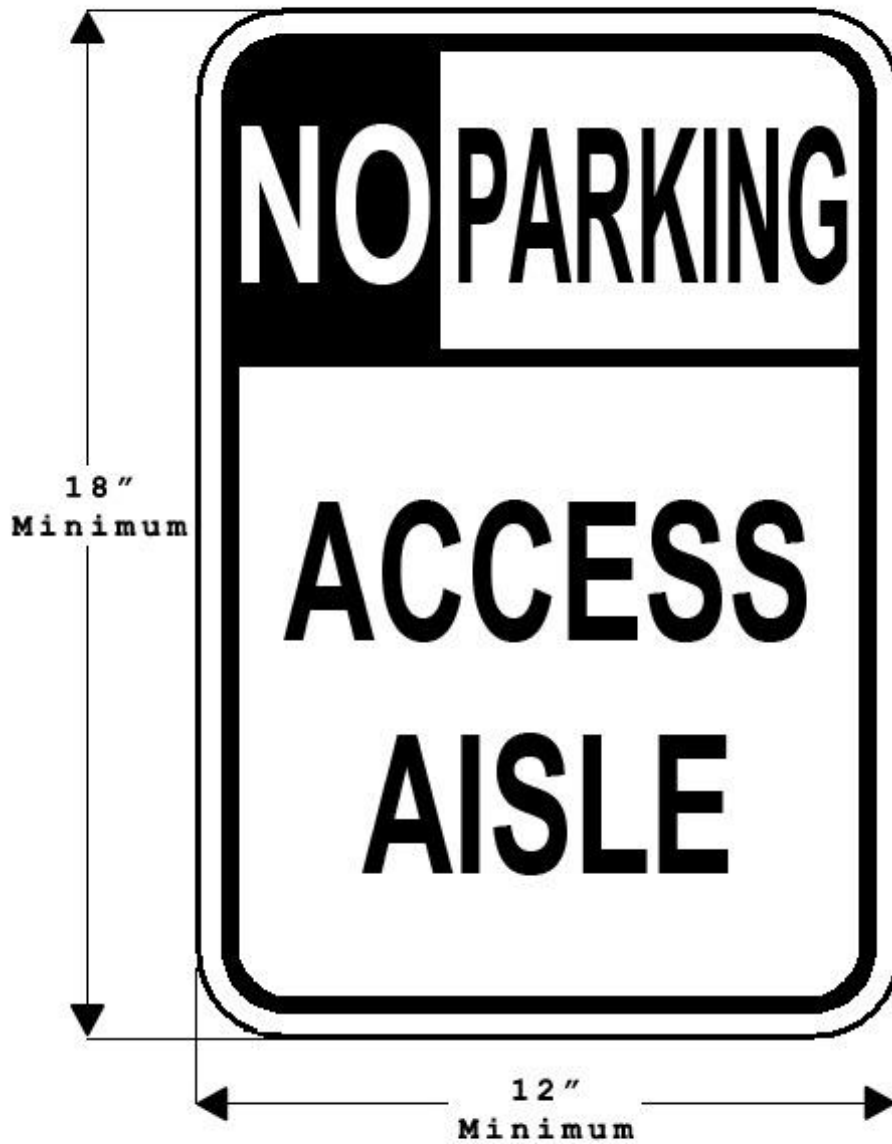
EXHIBIT 2

TYPICAL PARKING SIGN FOR VAN ACCESSIBLE STALL
(10/1/11)



EXHIBIT 3

**TYPICAL ACCESS AISLE SIGN
(10/1/11)**



V. Legislative Matters

A. Discussion and Action on the following Legislative Matters:

- a. House Bill 636 “Relating to the Small Business Regulatory Review Board”**
- b. Upcoming Governor’s Message Submitting for Consideration for the Gubernatorial Nomination of Harris Nakamoto to the Small Business Regulatory Review Board for a term to expire June 30, 2023**
- c. Upcoming Governor’s Message Submitting for Consideration for the Gubernatorial Nomination of James (Kimo) Lee to the Small Business Regulatory Review Board for a term to expire June 30, 2024**
- d. House Bill 1148 and Senate Bill 1262 “Relating to Land and Natural Resources” – authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to chapter 91, Hawaii Revised Statutes, and establishes a process for the board to adopt, amend and repeal administrative fee schedules, including public notice and meeting requirements**

HB636

Measure Title: RELATED TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

Report Title: Small business regulatory review board, department of business, economic development and tourism, appropriation (\$)

Description: Appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of Business, Economic Development and Tourism.

Companion:

Package: None

Current Referral: ECD, FIN

Introducer(s): WARD

<u>Sort by Date</u>	Status Text	
1/22/2021	H	Pending introduction.
1/25/2021	H	Introduced and Pass First Reading.
1/27/2021	H	Referred to ECD, FIN, referral sheet 1

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HB636

A BILL FOR AN ACT

RELATED TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

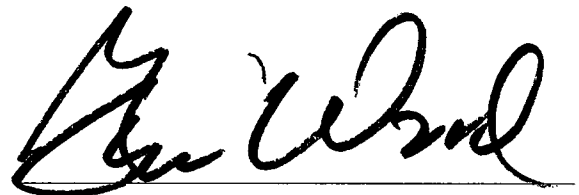
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$74,000 or so much
3 thereof as may be necessary for fiscal year 2021-2022 and the
4 same sum or so much thereof as may be necessary for fiscal year
5 2022-2023 for staffing, commissioner inter-island travel, and
6 other related operating expenses of the small business
7 regulatory review board.

8 The sums appropriated shall be expended by the department
9 of business, economic development and tourism for the purposes
10 of this Act.

11

INTRODUCED BY:



JAN 22 2021



H.B. NO. 636

Report Title:

Small business regulatory review board, department of business, economic development and tourism, appropriation

Description:

Appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of Business, Economic Development and Tourism.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HB1148

Measure Title: RELATING TO LAND AND NATURAL RESOURCES.

Report Title: DLNR; Administrative Fee Schedules; Board Powers

Description: Authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to chapter 91, Hawaii Revised Statutes. Establishes a process for the board to adopt, amend, and repeal administrative fee schedules, including public notice and meeting requirements.

Companion: [SB1262](#)

Package: None

Current Referral: WAL, FIN

Introducer(s): TARNAS, BRANCO, GATES, HAR, HASHIMOTO, ILAGAN, LOWEN, MARTEN, MORIKAWA, NAKAMURA, PERRUSO, TODD, YAMASHITA

<u>Sort by</u> <u>Date</u>	Status Text	
1/26/2021	H	Pending introduction.
1/27/2021	H	Introduced and Pass First Reading.
2/1/2021	H	Referred to WAL, FIN, referral sheet 3
2/8/2021	H	Bill scheduled to be heard by WAL on Thursday, 02-11-21 8:30AM in House conference room 430 Via Videoconference.
2/11/2021	H	The committees on WAL recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 7 Ayes: Representative(s) Tarnas, Branco, Ganaden, B. Kobayashi, Kong, Morikawa, McDermott; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Ohno.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HB1148

A BILL FOR AN ACT

RELATING TO LAND AND NATURAL RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the department of
2 land and natural resources (department) is responsible for
3 managing and administering the natural and cultural resources of
4 the State. These resources are impacted by a variety of
5 economic, environmental, and anthropogenic factors, some of
6 which may change rapidly and frequently. To effectively manage
7 these natural resources, the department charges fees to help
8 defray costs of activities necessary to manage those resources.

9 The legislature further finds that the administrative
10 rule-making process prescribed by chapter 91, Hawaii Revised
11 Statutes, serves the important function of providing opportunity
12 for public review and input. However, it is not designed for
13 implementation of fee structures in response to rapidly changing
14 economic conditions.

15 The legislature finds that an alternative process with
16 fewer procedural steps would enable the department to quickly



1 update fee structures to respond to rapidly changing conditions,
2 while also providing opportunity for public review and input.

3 The purpose of this Act is to authorize the board of land
4 and natural resources to adopt, amend, and repeal administrative
5 fees for the various divisions within the department by formal
6 board action at a publicly noticed meeting.

7 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§171- Administrative fee schedules; adoption,
11 amendment, and repeal. (a) Notwithstanding any other provision
12 of law, the board shall have the authority to adopt
13 administrative fee schedules for all activities for which the
14 department and its divisions charge administrative fees.
15 Adoption of these administrative fee schedules is exempt from
16 the requirements of chapter 91. All department fees established
17 by rule at the date of enactment may be deleted by rule and
18 adopted as an approved administrative fee schedule without the
19 need to comply with the requirements of chapter 91 in deleting
20 the fees from existing rules, subject to amendment or repeal in
21 accordance with the process established by this section.



1 (b) All department divisions shall make available on the
2 department's website each proposed administrative fee schedule
3 and the full text of the division's proposed fee schedule or
4 changes to existing fee schedules.

5 (c) No less than thirty days prior to the board meeting at
6 which the board will consider a proposed fee schedule adoption,
7 amendment, or repeal, divisions shall post notice of the meeting
8 on both the division and the department's website. The notice
9 shall include:

10 (A) The full text of the proposed schedule; and

11 (B) The date, time, and place where the board meeting will
12 be held and where interested persons may provide
13 written testimony or be heard on the proposed fee
14 schedule adoption, amendment, or repeal.

15 (d) The board shall afford all interested persons the
16 opportunity to submit data, views, or arguments, orally or in
17 writing, on any proposed fee schedule adoption, amendment, or
18 repeal. The board shall fully consider all written and oral
19 submissions and shall make its decision at the public meeting.

20 (e) Any administrative fee schedule hereafter adopted,
21 amended, or repealed shall become effective ten days after



1 adoption by the board, or if the board specifies a later
2 effective date, the later date shall be the effective date.

3 (f) Each division shall prepare a copy of the
4 administrative fee schedule changes according to the Ramseyer
5 format and post this copy of the administrative fee schedule
6 changes on the division and the department's website."

7 SECTION 3. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2021.

9
INTRODUCED BY:



JAN 26 2021



H.B. NO. 1148

Report Title:

DLNR; Administrative Fee Schedules; Board Powers

Description:

Authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to chapter 91, Hawaii Revised Statutes. Establishes a process for the board to adopt, amend, and repeal administrative fee schedules, including public notice and meeting requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



SB1262

Measure Title: RELATING TO LAND AND NATURAL RESOURCES.

Report Title: DLNR; Administrative Fee Schedules; Board Powers

Description: Authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to chapter 91, Hawaii Revised Statutes. Establishes a process for the board to adopt, amend, and repeal administrative fee schedules, including public notice and meeting requirements.

Companion: [HB1148](#)

Package: None

Current Referral: WTL, WAM/JDC

Introducer(s): RIVIERE, Gabbard, Shimabukuro

Sort by Date		Status Text
1/27/2021	S	Introduced.
1/27/2021	S	Passed First Reading.
2/1/2021	S	Referred to WTL, JDC.
2/5/2021	S	Re-Referred to WTL, WAM/JDC.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB1262

JAN 27 2021

A BILL FOR AN ACT

RELATING TO LAND AND NATURAL RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the department of
2 land and natural resources (department) is responsible for
3 managing and administering the natural and cultural resources of
4 the State. These resources are impacted by a variety of
5 economic, environmental, and anthropogenic factors, some of
6 which may change rapidly and frequently. To effectively manage
7 these natural resources, the department charges fees to help
8 defray costs of activities necessary to manage those resources.

9 The legislature further finds that the administrative
10 rule-making process prescribed by chapter 91, Hawaii Revised
11 Statutes, serves the important function of providing opportunity
12 for public review and input. However, it is not designed for
13 implementation of fee structures in response to rapidly changing
14 economic conditions.

15 The legislature finds that an alternative process with
16 fewer procedural steps would enable the department to quickly



1 update fee structures to respond to rapidly changing conditions,
2 while also providing opportunity for public review and input.

3 The purpose of this Act is to authorize the board of land
4 and natural resources to adopt, amend, and repeal administrative
5 fees for the various divisions within the department by formal
6 board action at a publicly noticed meeting.

7 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§171- Administrative fee schedules; adoption,
11 amendment, and repeal. (a) Notwithstanding any other provision
12 of law, the board shall have the authority to adopt
13 administrative fee schedules for all activities for which the
14 department and its divisions charge administrative fees.
15 Adoption of these administrative fee schedules is exempt from
16 the requirements of chapter 91. All department fees established
17 by rule at the date of enactment may be deleted by rule and
18 adopted as an approved administrative fee schedule without the
19 need to comply with the requirements of chapter 91 in deleting
20 the fees from existing rules, subject to amendment or repeal in
21 accordance with the process established by this section.



1 (b) All department divisions shall make available on the
2 department's website each proposed administrative fee schedule
3 and the full text of the division's proposed fee schedule or
4 changes to existing fee schedules.

5 (c) No less than thirty days prior to the board meeting at
6 which the board will consider a proposed fee schedule adoption,
7 amendment, or repeal, divisions shall post notice of the meeting
8 on both the division and the department's website. The notice
9 shall include:

10 (A) The full text of the proposed schedule; and

11 (B) The date, time, and place where the board meeting will
12 be held and where interested persons may provide
13 written testimony or be heard on the proposed fee
14 schedule adoption, amendment, or repeal.

15 (d) The board shall afford all interested persons the
16 opportunity to submit data, views, or arguments, orally or in
17 writing, on any proposed fee schedule adoption, amendment, or
18 repeal. The board shall fully consider all written and oral
19 submissions and shall make its decision at the public meeting.

20 (e) Any administrative fee schedule hereafter adopted,
21 amended, or repealed shall become effective ten days after



1 adoption by the board, or if the board specifies a later
2 effective date, the later date shall be the effective date.

3 (f) Each division shall prepare a copy of the
4 administrative fee schedule changes according to the Ramseyer
5 format and post this copy of the administrative fee schedule
6 changes on the division and the department's website."

7 SECTION 3. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2021.

9
INTRODUCED BY:

Gil Rivera



S.B. NO. 1262

Report Title:

DLNR; Administrative Fee Schedules; Board Powers

Description:

Authorizes the board of land and natural resources to adopt, amend, and repeal administrative fee schedules without regard to chapter 91, Hawaii Revised Statutes. Establishes a process for the board to adopt, amend, and repeal administrative fee schedules, including public notice and meeting requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



VI. Administrative Matters

A. Discussion and Action on the Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, HRS

Any handouts will be distributed at the Meeting