

SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism
No. 1 Capitol District Bldg., 250 South Hotel St. 5th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Tel 808 586-2594
Fax 808 586-2572

AGENDA

Wednesday, January 22, 2014 ★ 9:30 a.m.

No. 1 Capitol District Building

250 South Hotel Street - Conference Room 436

Neil Abercrombie
Governor

Richard C. Lim
Director, DBEDT

Mary Alice Evans
Deputy Director, DBEDT

Members

Chu I. an Shubert-Kwock
Chairperson
Oahu

Anthony Borge
Vice Chair
Oahu

Leslie Mullens
2nd Chairperson
Maui

Howard Lum
Oahu

Barbara Bennett
Kauai

Kyoko Y. Kimura
Maui

Craig Takamine
Hawaii

Richard C. Lim
Director, DBEDT
Voting Ex Officio

I. Call to Order

II. Approval of December 11, 2014 Meeting Minutes

III. Old Business

- A. Discussion and Action on the Small Business Statement After Public Hearing for Hawaii Administrative Rules (HAR) Title 18, Chapter 235, *Income Tax Law Renewal Energy Technologies; Income Tax Credit; Citations*, including Section 12.5-01 *Definitions*, Section 12.5-02 *Reserved*, Section 12.5-03 *Other Solar Energy Systems*, Section 12.5-04 *Reserved*, Section 12.5-05 *Multiple Properties and Mixed-use Property*, and Section 12.5-06 *Application of Sections 18-235-12.5-01 through 18-235-12.5-05*, as promulgated by the Department of Taxation; *Exhibit 1*

IV. New Business

- A. Discussion and Action on Proposed (new) Rules being promulgated by Department of Labor and Industrial Relations (DLIR) in HAR Title 12, Subtitle 8, Part 11, and in the chapters noted below and attached herein in *Exhibit 2*:
- Chapter 230.1 Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumb-waiters with Automatic Transfer Devices
 - Chapter 232.1 Personnel Hoists
 - Chapter 234.1 Platform Lifts and Stairway Chairlifts
- B. Discussion and Action on Proposed Amendments being promulgated by DLIR in HAR Title 12, Subtitle 8, Part 11 and in the chapters noted below and attached herein as Exhibit 2:
- Chapter 229 General, Administrative, and Legal Provisions
 - Chapter 240-1 General
- C. Discussion and Action on the Proposed Repeal being promulgated by DLIR in HAR Title 12, Subtitle 8, Part 11, and in the chapters noted below and attached herein in Exhibit 2:
- Chapter 230 Elevators, Dumbwaiters, Escalators, & Moving Walks
 - Chapter 231 Manlifts
 - Chapter 232 Personnel Hoists
 - Chapter 233 Aerial Passenger Tramways
 - Chapter 234 Inclined Passenger Lifts
 - Chapter 235 Existing Inclined Tunnel Lifts

7. Chapter 236 Vertical Wheelchair Lifts
8. Chapter 237 Inclined Wheelchair Lifts
9. Chapter 238 Incline Stairway Chair Lifts
10. Chapter 239 Personal Automatic Trains

V. Administrative Matters

- A. Discussion on Board's Fiscal Year 2015 Supplemental Budget Request
- B. Update and discussion of Board's "introduction" meetings to State agencies
- C. Discussion and Action on the reactivation of RegAlert, an electronic email alert system for announcement of proposed and amended administrative rules that impact small business
- D. Review current Board Member terms
- E. Review draft report of *201M-7 Periodic Review; evaluation, Hawaii Revised Statutes*
- F. Discussion and Action on the Delegation of authority to a Board member or members to submit testimony to and testify to the 2014 State Legislature
- G. Discussion on the Chair's Report regarding affairs relating to the Small Business Regulatory Review Board; *Exhibit A*

VI. Next Meeting: Scheduled for Wednesday, February 19, 2014, at 9:30 a.m., Conference Room 436, Capitol District Building, Honolulu, Hawaii

VII. Adjournment

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

2014
January 22, 2013 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Chu Lan Shubert-Kwock	NA	Oahu	Parking Pass	Yes
Howard Lum	NA	Oahu	Parking Pass	Yes
Craig Takamine <i>Travel - ✓</i>	HA	Hawaii	Parking Pass	Yes
Barbara Bennett <i>Travel - ✓</i>	HA	Kauai	Parking Pass	Yes
Kyoko Kimura <i>Travel - ✓</i>	HA	Maui	Parking Pass	Yes
Director's ex officio	NA	Oahu	NA	Yes
Anthony Borge	NA	Oahu	Parking Pass	Yes
Leslie Mullens <i>Travel - ✓</i>	NA	Maui	Parking Pass	Yes

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Make ⁽¹³⁾ 12+ copies of rule packages for board packets - continuous	✓
Poll board attendance	✓
Prepare TAF for Director's approval - ASAP <i>Linda ✓✓✓✓</i>	✓✓ ✓✓
Airline booking ASAP - Linda <i>✓✓✓✓</i>	✓
Draft Agenda to Chair <i>Approved</i>	✓
Post approved agenda on SBRRB website & State Calendar & Lte. Governor's Office	✓
Send Agendas to those people who requested it <i>1-15-14</i>	✓
Mail approved agenda to board members, M. Ahn <i>✓</i> <i>OIP/</i>	✓
Mail board packets Tues or Wed, Jan. 14th or 15th <i>Receipts PO</i>	✓
3-4 Days prior to meeting, send DAGS an email (or fax) re: Board members parking and attending SBRRB meeting - IMPORTANT	✓

STAFF				
Margaret Ahn				Yes
Dori Palcovich				Yes

Post Meeting Checklist	

Visitors Sign-in-Sheet - Small Business Regulatory Review Board - January 22, 2014

	Name	Title	Organization	Email	Phone
1	MICHAEL CHUNG	CONSULTANT	ELEVATOR CONSULTING	MIKEC@ELEVATORADVICE.COM	221-9353
2	Rey De Vera	Elevator Insp	DLIR		586-9141
3	Jim Whitmore	Consultant	Elevator Consulting	Jim W@ElevatorAdvice.com	224-5549
4	Thad Tomei	Elev Insp	DLIR	thadme1@hawaii.rr.com	681-2468
5	Julius Dacanay	Boiler & Elevator Insp	DLIR	julius.j.dacanay@hawaii.gov	791-5900
6	RONALD NAKAMIZU	ELEV. INSP.	DLIR	RONALD NAKAMIZU@HAWAII.GOV	586-9144
7	Al Denys	CAI LAC member	Community Assoc. Inst. Hawaii	aldenys@hawaii.rr.com	754-4055
8	JADE BUTAY	DLIR	DLIR		
9					
10					
11					
12					
13					
14					
15					
16					

(T)

NEIL ABERCROMBIE
GOVERNOR

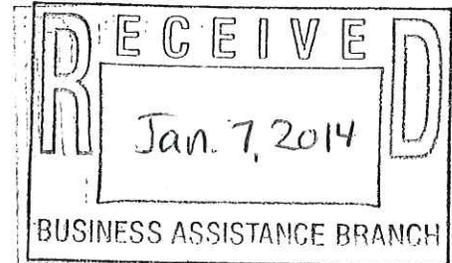
SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR



December 20, 2013

Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804
Attn: Chu-Lan Shubert-Kwock, Chair

Re: Small Business Statement re Public Hearing on Proposed Administrative Rules Relating to the Renewable Energy Technologies Income Tax Credit Held November 25, 2013.

Dear Ms. Shubert-Kwock and Members of the Board,

Pursuant to Section 201M-3, Hawaii Revised Statutes ("HRS"), the Department of Taxation ("Department") is providing you with this Small Business Statement after hearing. The Department held a public hearing November 25, 2013 on proposed rules relating to the Renewable Energy Technologies Income Tax Credit under section 235-12.5, HRS.

1. Description of How Opinions from Small Business Were Solicited; Summary of Public and Small Business Comments; Summary of Agency's Response to Those Comments.

Opinions from small businesses were solicited in the October 24, 2013 Notice of Public Hearing published in multiple newspapers statewide, as well as on the Department's website and the website of the Lieutenant Governor's office. That Notice invited all members of the public to submit written or oral testimony on the proposed rules.

In summary, the testimony generally discussed the following issues:

- Whether the definition of the term "actual cost" appeared to require taxpayers be on a cash-basis accounting method in order to claim the credit.
- Whether use of the term "structure" in the definition of the term "actual cost" was overly vague.

- Whether the definition of the term "property" was too narrow.
- Whether the rules should be revised to align with federal rules, where applicable.
- Whether the change in the rules is problematic for projects negotiated on the assumption the Department's position would remain unchanged.
- Whether the proposed rules add clarity.
- Whether the requirement that systems pass inspection before being considered "installed and placed in service" for purposes of the credit is problematic.
- Whether the rules exceed the Department's scope of rulemaking authority or exceed the scope of the statute.

After due consideration of these comments, the Department acted on the testimony related to the definitions of "actual cost" and "property" by making clarifying amendments to the proposed rules. The Department did not adopt amendments related to the other testimony either because it disagrees with the testimony or because it respectfully believes the changes would not help the consistent, uniform and fair administration of the tax credit.

2. Persons Who Attended the Hearing, Testified at the Hearing and Submitted Written Comments.

For your reference, a copy of the sign-in sheet from the public hearing is attached to this Small Business Statement. The letter "T" next to an individual's name indicates that person intended to testify orally at the hearing.

Written testimony was received from:

- Eric Kvam, Director, Renewable Energy Action Coalition of Hawaii, Inc.
- Thomas Yamachika, Aloha State Tax
- Larry Gilbert, Managing Partner, Kairos Energy Capital LLC
- Murray Clay, Managing Partner, Ulu Pono Initiative
- Zachary McNish, Distributed Energy Partners
- Hawaii Pacific Solar LLC
- Ray Kamikawa, Chun Kerr LLP
- Leslie Cole-Brooks, Executive Director, Hawaii Solar Energy Association
- Rising Sun Solar
- Alan M. Schlissel, Schlissel & Associates LLC
- Blue Planet Foundation
- Alan Lennard
- Ulrich Bonne

The testimony can be viewed on the Department's website at:
http://www6.hawaii.gov/tax/har_temp/Proposed_RETITC-public_hearing_testimony_11-25-2013.pdf. Two pieces of testimony were received late, and at the time of this writing, have not

PUBLIC HEARING SIGN IN SHEET
 for
 Proposed Adoption of Administrative Rules
 regarding
 Renewable Energy Technologies Income Tax Credit

Hawaii State Capitol
 415 South Beretania Street, Room 325
 Honolulu, Hawaii 96813

	PRINT NAME	PRINT NAME ORGANIZATION
	Kehau Faauonu	Watters Electric
(T)	Thomas Yamachika	
	Nancy Schwickler	Molokai Ranch
	Clay Rumbore	" "
	Johannel Nakamura	Johannel Nakamura
T	Andrew Yanig	President HSEA
	JOHN MURPHY	WATERS ELECTRIC
(T)	Heslie Cole Brooks	ITSEA.
	Christopher Teves	Solar City
	Sean Salas	SolarCity
	Cheryl Laglia	SolarCity
	Aaron Kirk	Sunetric
	Bryan Cadiz	Solar City
(T)	Larry Gilbert	Kaitos Energy Capital
	Mark Ruda	Hawaii PV Coalition
(T)	Zachary McNish	Distributed Energy Partners
	Richel Reed	Inter-Island Solar Supply

yet been placed on the website.

If you would like a hard copy of the testimony, please do not hesitate to ask.

-
3. Requests to Change the Proposed Rule; Reasons for Adopting the Proposed Rule; Reasons Requested Changes Were Not Made; Problems or Negatives Results Change Would Provide if Adopted.

As noted above, several testifiers requested changes to the proposed rules. The Department made two of these changes. The Department respectfully declined to make other suggested changes because it believed such changes would negatively impact its ability to consistently uniformly and fairly administer the tax credit.

If you have any questions about any of the attached documents, please contact me at 587-1569.

Sincerely,



Ted Shiraishi
Administrative Rules Officer

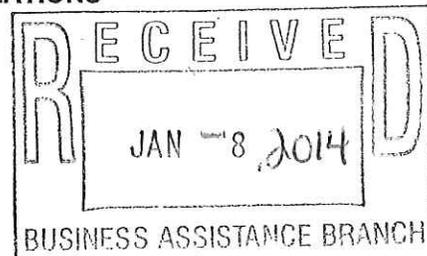
Enclosures (2)

- Public Hearing Sign-in Sheet
- One copy of the proposed rules in standard format



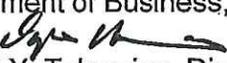
STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov



January 7, 2014

TO: The Honorable Richard C. Lim, Director
Department of Business, Economic Development & Tourism

FROM: 
Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

SUBJECT: Small Business Impact Statement for Elevator and Related Systems Rules

We are proposing to amend the Elevators and Related Systems Administrative Rules in Title 12, Chapter 8. The adoption of the proposed rules will bring the applicable code of elevator standards up to the 2010 American Society of Mechanical Engineers (ASME) A17.1 standards (national consensus standards) for many elevators and clarify that the applicable code for older elevators is the code in effect at the time of installation. The current rules use ASME A17.1 from 1996, which have been updated four times since, but Hawaii has not adopted any of the updates. The administrative rules for elevator safety were last updated in 1998 when the department incorporated the 1996 code.

The Hawaii Small Business Regulatory Flexibility Act (Chapter 201M) requires an assessment of the impact of the proposed rules on small business. The initial impact of the proposed rules will be to elevator contractors, construction contractors of buildings using elevators, dumbwaiters, escalators, moving walks, and disability lifts, and kindred equipment; and building owners. Some costs will be reduced as modern equipment construction need not be retrofitted to the old rules, and some changes to performance language requirements will enable less costly alternatives to be used.

However, some costs will increase, notably the written Maintenance Control Program requirement for new as well as existing installations. The costs will likely be passed on to tenants of building owners and eventually to all businesses utilizing services of those within buildings with elevators and kindred equipment.

Lastly, the proposed rules are consistent with the intent of Act 82, Session Laws of Hawaii, 2007, by enabling quicker review and adoption of national published codes or standards for application to Hawaii by incorporating by reference the most recent of those codes and standards and making only the most necessary changes in keeping with the uniqueness of Hawaii.

Enclosures: Adoption of Chapters 12-230.1, 12-232.1, 12-234.1; Amendment and Compilation of Chapter 12-229; Amendment of Chapter 12-240-1; and Repeal of Chapters 12-230, 12-231, 12-232, 12-233, 12-234, 12-235, 12-236, 12-237, 12-238, and 12-239. (Ramseyer version)

NEIL ABERCROMBIE
GOVERNOR



KALBERT K. YOUNG
DIRECTOR

LUIS P. SALAVERIA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER
PUBLIC UTILITIES COMMISSION

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

December 13, 2013

TO: Ms. Chu Lan Schubert-Kwock, Chairperson
Small Business Regulatory Review Board
Department of Business, Economic Development and Tourism

FROM: Kalbert K. Young
Director of Finance 

SUBJECT: Department of Business, Economic Development and Tourism
Budget Request for the Small Business Regulatory Review Board

I have received your letter regarding your requests for an Office Assistant III and operating expenses to support the activities of the Small Business Regulatory Review Board (SBRRB) for FY 15.

The SBRRB budget requests have been included in the FY 15 Executive Supplemental Budget as part of the Department of Business, Economic Development and Tourism's operating budget and will be submitted for consideration by the 2014 Legislature.

c: Honorable Neil Abercrombie
Honorable Richard C. Lim, Director

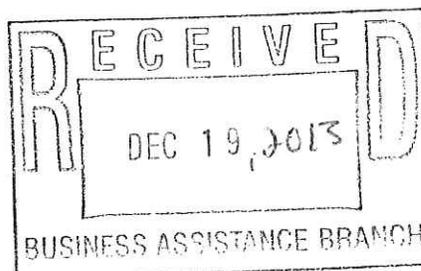
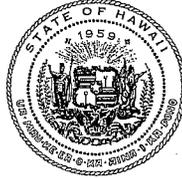


Exhibit 1

NEIL ABERCROMBIE
GOVERNOR

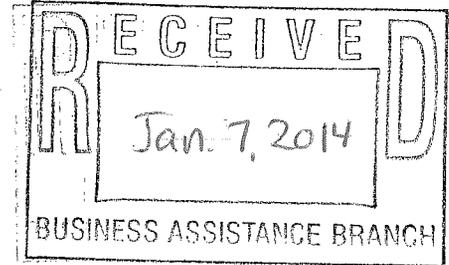
SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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PHONE NO: (808) 587-1530
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FREDERICK D. PABLO
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Ted Shiraishi
Administrative Rules Officer

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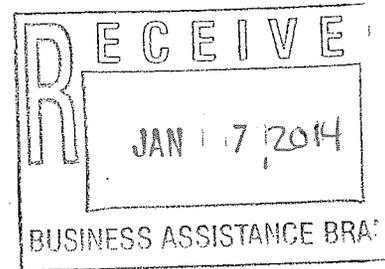
DEPARTMENT OF TAXATION

Adoption of Chapter 18-235
Hawaii Administrative Rules

_____, 2013

SUMMARY

1. A new §18-235-12.5-01 is added.
2. A new §18-235-12.5-02 is added.
3. A new §18-235-12.5-03 is added.
4. A new §18-235-12.5-04 is added.
5. A new §18-235-12.5-05 is added.
6. A new §18-235-12.5-06 is added.



HAWAII ADMINISTRATIVE RULES

TITLE 18

DEPARTMENT OF TAXATION

CHAPTER 235

INCOME TAX LAW

RENEWABLE ENERGY TECHNOLOGIES; INCOME TAX CREDIT;
CITATIONS

§18-235-12.5-01	Definitions
§18-235-12.5-02	Reserved
§18-235-12.5-03	Other Solar Energy Systems
§18-235-12.5-04	Reserved
§18-235-12.5-05	Multiple Properties and Mixed-use Property
§18-235-12.5-06	Application of sections 18-235- 12.5-01 through 18-235-12.5-05

RENEWABLE ENERGY TECHNOLOGIES; INCOME TAX CREDIT

~~§18-235-12.5-01~~ Definitions. (a) As used in section 235-12.5, HRS, and sections 18-235-12.5-01 through 18-235-12.5-05:

- (1) "Actual cost" means the amounts incurred or paid for renewable energy technology systems under section 235-12.5(a), HRS, including peripheral equipment ordinarily and necessarily required for system operation and installation. Actual cost shall not include any consumer incentive payments or premiums offered with the system, regardless of when such payment or premium is made to the customer, and shall not include any amount for which another credit is claimed under chapter 235, HRS. Any amounts incurred or paid for the repair, construction, or reconstruction of a structure or building in conjunction with the installation and placing in service of a solar or wind energy system shall not constitute a part of actual cost for the purposes of section 235-12.5, HRS.
- (2) "Commercial property" means a property which cannot be properly characterized as residential or mixed-use property. A hotel, or any other place in which lodgings are regularly furnished to transients for consideration, in which all of the rooms, apartments, suites, or the like are occupied by a transient for less than one hundred eighty consecutive days for each letting will be considered commercial property to the extent of that use.
- (3) "Installed and placed in service" means that the system is ready and available for its specific use. With respect to systems installed for residential property, all requirements will be completed and a system will be deemed to be installed and placed in service when: (1) The actual cost has been incurred; (2) all installation, including all related electrical

work, has been completed; and (3) any required requests for inspection of the installation has been received by the appropriate government agency. However, if the residential installation fails to pass all the required inspections the credit is properly claimed in the taxable year in which the system passes such inspection.

- (4) "Mixed-use property" means a property on which at least one residence exists and commercial activity takes place.
- (5) "Multi-family residential property" means a property on which more than one residence is located. The determination that property is multi-family residential property is fact specific, but in general and in the absence of other relevant facts to the contrary, multi-family residential property will be real property that is described in a recorded title and that has more than one mailing address or separate entrances to separate living areas. The following exceptions may apply:
 - (A) The Ohana House Exception: If a single property has two separate residences, each occupied by members of a family as defined in the Internal Revenue Code, section 267(b)(1), then each residence will be considered a separate single-family residential property if the system services both residences. Partners in a civil union will also be considered members of a family for the purpose of this exception; or
 - (B) The Directed Use Exception: If a system only services one residence on a multi-family residential property, then the system will be treated as servicing a single-family residential property.
- (6) "Property" means a single, definable portion of real property located in the State as described in a title recorded with the Bureau of Conveyances or Land Court of the state of Hawaii and that the applicable law allows to be sold in fee simple separately from any other real

property located in the State. For purposes of the Renewable Energy Technologies Income Tax Credit under section 235-12.5, HRS, all such titled property in the State is to be characterized as commercial, residential, or a mix of the two (mixed-use). When special circumstances exist, the department, at its discretion, may determine whether an interest qualifies as a "property" for the purposes of the credit on a case-by-case basis.

- (7) "Renewable energy technology system" means a new system that captures and converts a renewable source of energy, such as solar or wind energy, into a usable source of thermal or mechanical energy, electricity, or fuel.
- (8) "Residence" means dwelling place or place of habitation, an abode.
- (9) "Single-family residential property" means a property on which one residence is located.
- (10) "Standard Test Conditions" means 25 degrees Celsius cell/module temperature, 1,000 watts per square meter (W/m^2) irradiance, air mass 1.5 (AM 1.5) spectrum.
- (11) "Total output capacity" means the combined individual output capacities (maximum power) of all identifiable facilities, equipment, apparatus or the like that make up the renewable energy technology system installed and placed in service during a taxable year measured in kilowatts. The total output capacity of a solar energy system shall be calculated using the manufacturer's published specifications of the components of the solar energy system. Generally, for photovoltaic solar energy systems, total output capacity is the output capacity (maximum power) of each cell, module or panel at Standard Test Conditions in kilowatts multiplied by the number of cells, modules or panels installed and placed into service during a taxable year. The amount of energy actually produced is not relevant to calculating total output capacity. [Eff]

(Auth: HRS §§231-3(9), 235-12.5, 235-118) (Imp:
HRS §235-12.5)

§18-235-12.5-02 [Reserved]

§18-235-12.5-03 Other Solar Energy Systems. (a)
"Solar energy system" means any identifiable facility,
equipment, apparatus, or the like that converts solar
energy to useful thermal or electrical energy for
heating, cooling, or reducing the use of other types
of energy that are dependent upon fossil fuel for
their generation. Unless subsection (b) applies, each
solar energy system installed and placed in service on
or after January 1, 2013 shall have a total output
capacity at Standard Test Conditions as follows:

- (1) Single-family residential property: For credits
calculated under section 235-12.5(a)(1), HRS, and
capped under section 235-12.5(b)(2)(A), HRS, each
system for which a credit is claimed shall have a
total output capacity of at least 5 kilowatts.
- (2) Multi-family residential property: For credits
calculated under section 235-12.5(a)(1), HRS, and
capped under section 235-12.5(b)(2)(B), HRS, each
system for which a credit is claimed shall have a
total output capacity of at least 0.360 kilowatts
per unit per system.
- (3) Commercial property: For credits calculated
under section 235-12.5(a)(1), HRS, and capped
under section 235-12.5(b)(2)(C), HRS, each system
for which a credit is claimed shall have a total
output capacity of at least 1,000 kilowatts.

Example 1: Taxpayer installs and places into service
solar energy equipment including 20 photovoltaic
panels, each of which has an output capacity (maximum
power) of 0.250 kilowatts on a single-family
residential property. The installation has a total
output capacity of 5 kilowatts (0.250 kilowatts times
20 photovoltaic panels). One system has been
installed and placed into service for the purpose of

calculating the credit. The actual cost of the system may not be divided in order to claim multiple credits because the solar energy system only meets the total output capacity requirement for one system.

Example 2: Taxpayer installs and places into service solar energy equipment including 40 photovoltaic panels, each of which has an output capacity (maximum power) of 0.180 kilowatts on a multi-family residential property. The installation has a total output capacity of 7.2 kilowatts (0.180 kilowatts times 40 photovoltaic panels). If the installation serves 20 units, the total output capacity for each system must be at least 7.2 kilowatts (0.360 kilowatts times 20 units). One system has been installed and placed into service for the purpose of calculating the credit.

Example 3: Taxpayer installs and places into service solar energy equipment including 4,000 photovoltaic panels, each of which has an output capacity (maximum power) of 0.250 kilowatts on a commercial property. The installation has a total output capacity of 1,000 kilowatts (0.250 kilowatts times 4,000 photovoltaic panels). Since each system must have a total output capacity of at least 1,000 kilowatts, one system has been installed and placed into service for the purpose of calculating the credit.

Example 4: Taxpayer installs and places into service solar energy equipment including 40 photovoltaic panels, each of which has an output capacity (maximum power) of 0.250 kilowatts on a single-family residential property. The installation has a total output capacity of 10 kilowatts (0.250 kilowatts times 40 photovoltaic panels). Since each system must have a total output capacity of at least 5 kilowatts, two systems have been installed and placed into service for the purpose of calculating the credit.

Example 5: During March of a taxable year, Taxpayer installs and places into service solar energy

equipment including 10 photovoltaic panels, each of which has an output capacity (maximum power) of 0.250 kilowatts on a single-family residential property. During August of the same taxable year, Taxpayer installs and places into service additional equipment including 10 photovoltaic panels, each of which also has an output capacity (maximum power) of 0.250 kilowatts on the same the single-family residential property. The total output capacity of both installations is 5 kilowatts [(0.250 kilowatts times 10 photovoltaic panels)+ (0.250 kilowatts times 10 photovoltaic panels)] because the output capacity of both installations must be combined. Since each system must have a total output capacity of at least 5 kilowatts, one system has been installed and placed into service for the purpose of calculating the credit.

(b) The credit may be claimed for one solar energy system installed and placed in service per property which fails to meet the applicable total output capacity requirement as set forth in subsections

(a)(1) through (a)(3), where:

- (1) Only one solar energy system, for the purposes of the credit, has been installed and placed in service during a taxable year on a single property; or
- (2) More than one solar energy system, for the purposes of the credit, has been installed and placed in service during a taxable year on a single property and one of the systems fails to meet the applicable total output capacity requirement.

Example 6: Taxpayer installs and places into service solar energy equipment including 10 photovoltaic panels, each of which has an output capacity (maximum power) of 0.250 kilowatts on a single-family residential property. The installation has a total output capacity of 2.5 kilowatts (0.250 kilowatts times 10 photovoltaic panels). Although the system does not meet the total output capacity requirement,

subsection (b) (1) permits the claiming of the credit because only one system has been installed and placed into service on one property.

Example 7: Taxpayer installs and places into service solar energy equipment on a single-family residential property which has a total output capacity of 7.5 kilowatts and an actual cost of \$37,500. In order to calculate the credit, the actual cost per kilowatt must be determined by dividing the actual cost by the total output capacity. The actual cost per kilowatt is \$5,000 (\$37,500 divided by 7.5 kilowatts). Since a system installed and placed in service on a single-family residential property must have a total output capacity of at least 5 kilowatts, the actual cost of the first system is \$25,000 (\$5,000 times 5 kilowatts). The credit for the first system is \$5,000 because thirty-five percent of \$25,000 exceeds the applicable cap of \$5,000. A credit for the second system may also be claimed because subsection (b) (2) permits taxpayers to claim the credit for one system per property that fails to meet the total output capacity requirement. The actual cost of the second system is \$12,500 (\$5,000 times 2.5 kilowatts). The credit for the second system is \$4,375 or thirty-five percent of \$12,500. [Eff] (Auth: HRS §§231-3(9), 235-12.5, 235-118) (Imp: HRS §235-12.5)

§18-235-12.5-04 [Reserved]

§18-235-12.5-05 Multiple Properties and Mixed-use Property. (a) Property will be considered residential or mixed-use if any portion of the property is being used as a residence. If at the time of installation and placing in service of the system the property is not occupied, then property will be considered residential or mixed-use if any portion of the property is intended for use as a residence. (b) Allocation. Where a single system is installed and placed in service to serve more than one property

or to service a mixed-use property the taxpayer shall apply a reasonable allocation method such as square footage or a measure of use as follows:

- (1) For a system installed and placed in service to serve more than one property, the actual cost of a single system servicing multiple properties is allocated among the properties. The actual cost of other solar energy systems shall be allocated in a manner consistent with section 18-235-12.5-03. With multiple properties, the appropriate cap is applied for each separate property.

Example 1: Assume Taxpayer installs and places into service a wind farm that services one community of 50 single-family homes and 10 separate commercial properties. Each property is equal in size and use, the allocation of the actual cost would be made equally to each property. Further assume that a \$600,000 wind-powered system were installed and placed in service for these properties, the credit would be calculated as follows: Allocation of cost: The actual cost of \$600,000 would be divided equally among the properties, allocating \$10,000 to each property. Single-family residential: Each single-family residential property would be treated independently. In each case, twenty percent of \$10,000, or \$2,000, would be compared against the \$1,500 single-family residential property cap. Under the facts of this example, each single-family residential property would generate a \$1,500 credit, for a total of \$75,000 (50 properties times \$1,500). Commercial: Each commercial property would be treated independently. In each case, twenty percent of \$10,000, or \$2,000, would be compared against the \$500,000 commercial property cap. Under the facts of this example, each commercial property would generate a \$2,000 credit, for a total of \$20,000 (10 properties times \$2,000). The total credit for the \$600,000 wind-powered system is \$1,500 for each single-family residential

property (\$75,000) plus \$2,000 for each commercial property (\$20,000) for a total credit of \$95,000.

Example 2: Taxpayer, an independent energy provider installs and places into service a wind farm that does not service any particular property, but is entirely directed into the energy grid of the local electricity provider. The renewable energy technology system will be considered to be servicing commercial property only; no allocation is necessary. However, if an identifiable connection exists to customers situated on the property where the power is produced in addition to a connection to the energy grid of the local electricity provider, then the cost of the system must be allocated among and between the particular property or properties being serviced and the connection to the energy grid, which is treated as servicing a single commercial property.

Example 3: Taxpayer installs and places into service solar energy equipment for a condominium that contains both residential and commercial units. Each condominium unit has a separate title, so each unit would be treated as a separate property. The taxpayer must reasonably allocate the actual cost of the system between the residential and commercial properties. The condominium contains 50 single-family units and 10 commercial units of equal size and use, and a \$600,000 photovoltaic energy system that has a total output capacity of 60 kilowatts. The credit is calculated as follows: Allocation of cost: The actual cost per kilowatt is \$10,000 (\$600,000 divided by 60 kilowatts). Since there are 60 separate units that have equal energy use, the actual cost of a 1 kilowatt portion of the installation must be allocated to each unit. Thus, actual cost of \$600,000 would be divided equally among the 60 properties, allocating

\$10,000 to each property. Single-family residential: Although each system does not meet the total output capacity requirement, subsection 18-235-12.5-03(b)(1) allows a credit to be claimed for each system because only one system has installed and placed into service on each property. Each single-family residential condo unit would be treated independently. In each case, thirty-five percent of \$10,000, or \$3,500, would be compared against the \$5,000 single-family residential property cap. Under the facts of this example, each single-family residential property would generate a \$3,500 credit, for a total of \$175,000 (50 units times \$3,500). Commercial: Each commercial condo unit would be treated independently. In each case, thirty-five percent of \$10,000, or \$3,500, would be compared against the \$500,000 commercial property cap. Each commercial property would generate a \$3,500 credit, for a total of \$35,000 (10 properties times \$3,500). The total credit for the \$600,000 photovoltaic energy system is \$3,500 for each single-family condo unit (\$175,000) plus \$3,500 for each commercial condo unit (\$35,000) for a total credit of \$210,000.

- (2) For a system installed and placed in service to service a mixed-use property, the actual cost of the system is allocated between the residential use (which may be single-family use or multiple-family use) and the commercial use. For a photovoltaic energy system, thirty-five percent of the cost allocated to residential use is compared against either the single-family residential cap or the multiple-family residential cap; and thirty-five percent of the cost allocated to commercial use is compared against the commercial property cap.

Example 4: Taxpayer is a farmer and has a dwelling and barn on one of the lots which is considered to be a mixed-use property. Taxpayer

installs and places into service a renewable energy technology system that only services the barn. Allocation by use results in the system being subject only to the commercial property limitations. (Note: This is not an example of the directed use exception; an allocation would still be made, but it would be a 0% residential/100% commercial allocation based upon use.)

Example 5: Same facts as Example 4, but the system services both the barn and the dwelling. A portion of the system's actual cost would be subject to the commercial property limitations and the rest would be subject to the single-family residential property limitations.

Example 6: Taxpayer installs and places into service renewable energy technology equipment for an apartment complex that contains both residential and commercial units. Each unit is not separately titled, so each unit would not be treated as separate property. Instead, the titled property is the entire apartment complex. Since the titled property is mixed-use, the taxpayer will have to reasonably allocate the actual cost of the system between the residential and commercial uses of the property. The complex contains 50 single-family units and 10 commercial units of equal size and use, and a \$600,000 photovoltaic energy system that has a total output capacity of 60 kilowatts. The credit would be calculated as follows: Allocation of cost: The actual cost per kilowatt is \$10,000 (\$600,000 divided by 60 kilowatts). Since each of the units has an equal energy use, the actual cost of \$600,000 would be divided between residential use of the property and the commercial use of the property, allocating \$500,000 (\$10,000 times 50 units) to the residential use and \$100,000 (\$10,000 times 10 units) to the commercial use. Residential Use:

Since the property contains more than one residence, the proper characterization of this use is multi-family residential. Because the installation serves 50 residential units, the total output capacity of each system must be at least 18 kilowatts (0.360 kilowatts times 50 units). The total output capacity of the residential portion of the installation is 50 kilowatts. For the purpose of calculating the credit, two systems that meet the total output capacity requirement and one system that fails to meet the requirement have been installed and placed into service. The actual cost for each of the two systems which meet the 18 kilowatt total output capacity requirement is \$180,000 (\$10,000 times 18 kilowatts) each. Thirty-five percent of \$180,000, or \$63,000, would be compared against the multi-family residential property cap, or \$17,500 (\$350 times 50 units). Because the credit is capped at \$17,500 per system, the total credit for the two systems that meet the total output capacity requirement is \$35,000 (\$17,500 plus \$17,500). The third system has an actual cost of \$140,000 (\$10,000 times 14 kilowatts). Although the system does not meet the total output capacity requirement the credit may be claimed under subsection 18-235-12.5-03(b)(2). Thirty-five percent of \$140,000, or \$49,000, would be compared against the multi-family residential property cap, or \$17,500 (\$350 times 50 units). The credit for the third system is \$17,500 due to the cap. The total credit for the three systems serving the multi-family residential portion of the property is \$52,500 (\$17,500 times 3 systems). Commercial Use: Each system serving commercial property must have a total output capacity of at least 1,000 kilowatts. The total output capacity of the installation serving the commercial portion of the property is 10 kilowatts and the actual cost is \$100,000 (\$10,000 times 10 kilowatts). Since the portion of the installation serving

commercial property fails to meet the total output capacity requirement and the credit is already claimed for a system that does not meet the applicable total output capacity requirement on a single property, a credit may not be claimed for the installation that serves the commercial portion of the property. The total credit for the entire \$600,000 solar energy installation is \$52,500. Note: A credit for the commercial part of the installation may have been claimed if the credit for the third multi-family residential system had not been claimed. [Eff] (Auth: HRS §§231-3(9), 235-12.5, 235-118) (Imp: HRS §235-12.5)

§18-235-12.5-06 Application of sections 18-235-12.5-01 through 18-235-12.5-05. Sections 18-235-12.5-01 through 18-235-12.5-05 shall apply to renewable energy technology systems that are installed and placed in service on or after January 1, 2013. To the extent that sections 18-235-12.5-01 through 18-235-12.5-05 conflict with guidance issued by the department prior to January 1, 2013, these sections shall prevail. [Eff] (Auth: HRS §§231-3(9), 235-12.5, 235-118) (Imp: HRS §235-12.5)

DEPARTMENT OF TAXATION

Chapter 18-235, Hawaii Administrative Rules, on the Summary Page dated _____, was adopted on _____, following public hearing held on November 25, 2013, after public notice was given in the Honolulu Star-Advertiser, West Hawaii Today, The Maui News, and Hawaii Tribune-Herald newspapers on October 24, 2013.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

FREDERICK D. PABLO
Director of Taxation

APPROVED:

NEIL ABERCROMBIE
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed

Exhibit 2

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

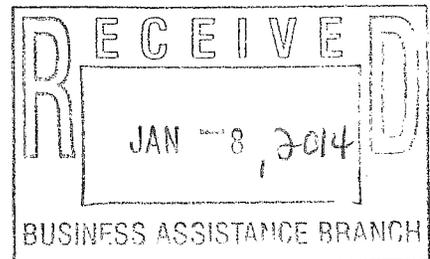
Adoption of Chapters 12-230.1, 12-232.1, and
12-234.1;

Amendment and Compilation of Chapter 12-229;
Amendment of Chapter 12-240-1; and

Repeal of Chapters 12-230, 12-231, 12-232, 12-233,
12-234, 12-235, 12-236, 12-237, 12-238, and 12-239
Hawaii Administrative Rules

(Adoption Date)

1. Chapter 12-230.1, Hawaii Administrative Rules,
entitled "Elevators, Escalators, Dumbwaiters, Moving Walks, and
Material Lifts and Dumbwaiters with Automatic Transfer
Devices", is adopted to read as
follows: _____



operation, use, maintenance, repair, alteration and relocation of, and investigation of accidents involving elevators and kindred equipment subject to chapter 397, Hawaii Revised Statutes, including elevators, escalators, dumbwaiters, moving walks, and material lifts and dumbwaiters with automatic transfer devices. [Eff _____] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-230.1-2 General requirements. (a) All new and existing installations of elevators and kindred equipment shall be reasonably safe to persons and property and in conformity with the provisions of this chapter.

(b) Conditions found not in conformity with the provisions of this chapter for which the director had not previously issued a discrepancy letter may be regarded as discrepancies. All discrepancies shall be satisfactorily resolved as soon as possible or within the time specified by the director. Failure to correct discrepancies or failure to abate an unsafe condition within the time specified shall be deemed a violation.

(c) All passenger elevators shall have a clearly legible "Smoking Prohibited by Law" or "No Smoking" sign installed inside of the cab. The letters on the sign shall not be less than one inch in height. The sign shall be posted in elevators in buildings open to the public, including elevators in apartments and other multi-unit residential buildings. The international no-smoking symbol may be posted in lieu of the sign provided that the diameter of the circle is not less than four inches. [Eff _____] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-230.1-3 Requirements for the installation of new elevators and kindred equipment and/or the relocation of existing equipment. (a) The design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of elevators, escalators, dumbwaiters, moving walks, and material lifts and dumbwaiters with automatic transfer devices, and its associated parts, shall conform to

the rules in this chapter and the American Society of Mechanical Engineers A17.1-2010, which is adopted by reference and made a part of this chapter with the following amendments:

- (1) Section 5.2 of the American Society of Mechanical Engineers A17.1, Limited-Use/Limited-Application Elevators, is amended to read: "Limited-use/limited-application elevators (see 1.3) are not permitted to be installed or used, unless:
 - (A) The building is required to be accessible in accordance with the Department of Justice's ADA Standards for Accessible Design (2010), or in accordance with section 103-50, Hawaii Revised Statutes;
 - (B) The building is also on the National or Hawaii Register of Historic Places; and
 - (C) Accessibility cannot otherwise be achieved without adversely altering the historically protected features of the structure."
- (2) Section 8.6.1.2.1(c) of the American Society of Mechanical Engineers A17.1 is amended to read: "A written Maintenance Control Program in electronic or paper form created for the equipment is the property of the equipment owner, and shall be made available to the department and be located on site."
- (3) Section 8.9.2 of the American Society of Mechanical Engineers A17.1 is amended to read: "The data plate shall be in plain view and securely attached to the controller door. An additional data plate shall be installed in the vicinity of the top key operated starting switch on the exterior of escalators and moving walks."
 - (b) A stairway or ladder shall be provided at all personnel points of access where there is a break in elevation of eight inches (two hundred mm) or more and no ramp or runway is provided
 - (c) International Building Code, 2012 edition, chapter 30, Elevators and Conveying Systems, is adopted by reference and made a part of this chapter, and shall apply to all new elevators and kindred equipment.
 - (d) International Code Council A117.1-2009, Accessible and Usable Buildings and Facilities, sections 407, 410, and related portions of sections 106, 302, 308, 309, 703, and 705

are adopted by reference and made a part of this chapter, and shall apply to all new installations.

(e) Chapter 21 of the National Fire Protection Association 72 National Fire Alarm and Signaling Code, 2010 edition, and its related annexes and provisions are adopted by reference and made a part of this chapter, and shall apply to all new elevators.

(f) Article 620 of the National Fire Protection Association 70, National Electric Code, 2011 edition, and its related provisions are adopted by reference and made a part of this chapter, and shall apply to all new elevators.

(g) Paragraph 8.15.5, of National Fire Protection Association 13, Standard for the Installation of Sprinkler Systems, 2010 edition, is adopted by reference and made a part of this chapter, and shall apply to all new elevators and escalators. The annexes A.8.15.5.1 to A.8.15.5.4, D.1.1.9.2, D.1.1.10.2, D.2.23.2.2, and D.2.24.2.2, are explanatory and informational only.

(h) In each machine room, control room, machinery space, control space, and hoistway pit, there shall be provided at least one 125 volt, single phase, 15- or 20-ampere ground fault circuit interrupter (GFCI) duplex receptacle.

(i) A machine room light bulb shall be externally guarded if the bulb is ten feet or lower from the floor.

(j) Section 2.27.8 (switch keys) of American Society of Mechanical Engineers A17.1 is amended to read: "The key switches required by 2.27.2 through 2.27.5 for all elevators in a building shall be operable by the FEO-K1 key. The keys shall be Group 3 Security (see 8.1). A separate key shall be provided for each switch. These keys shall be kept inside the firefighter's lockbox. The firefighter's lockbox shall be located 6 feet above the floor on the left hand side of the elevator wall when facing the elevator and 6 feet above the floor on the left hand side of the left elevator when facing the elevators for a group of elevators. The fire key switch shall be located adjacent to the firefighter's lockbox. This key shall be of a tubular, 7 pin, style 137 construction and shall have a bitting code of 6143521 starting at the tab sequenced clockwise as viewed from the barrel end of the key. The key shall be coded "FEO-K1." The possession of the "FEO-K1" key shall be limited to elevator personnel, emergency personnel, elevator equipment manufacturers, and authorized

personnel during checking of the Firefighters' Emergency Operation (see(8.1 and 8.6.11.1)." [Eff]
 (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-230.1-4 Requirements for existing elevators, escalators, dumbwaiters, moving walks, and material lifts and dumbwaiters with automatic transfer devices. (a) All existing elevators, escalators, moving walks, and dumbwaiters and material lifts without automatic transfer devices shall comply with the code in effect at the time of installation or alteration. If the installation or alteration permit was issued after 1997, then the elevator or kindred equipment shall comply with American Society of Mechanical Engineers A17.3-2011, which is adopted by reference and made a part of this chapter with the following amendments:

- (1) Nonmandatory Appendix C of American Society of Mechanical Engineers A17.3 is mandatory.
- (2) Rule 211.3 of American Society of Mechanical Engineers A17.3 Nonmandatory Appendix C, Firefighter's Service - Automatic Elevators, is amended to read: "All automatic (nondesignated attendant) operation elevators shall conform to the requirements of this rule."

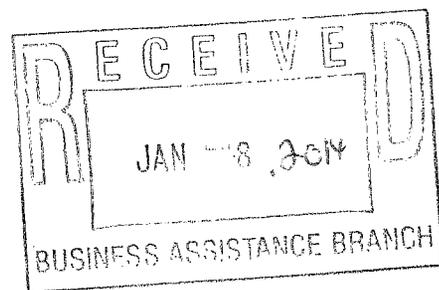
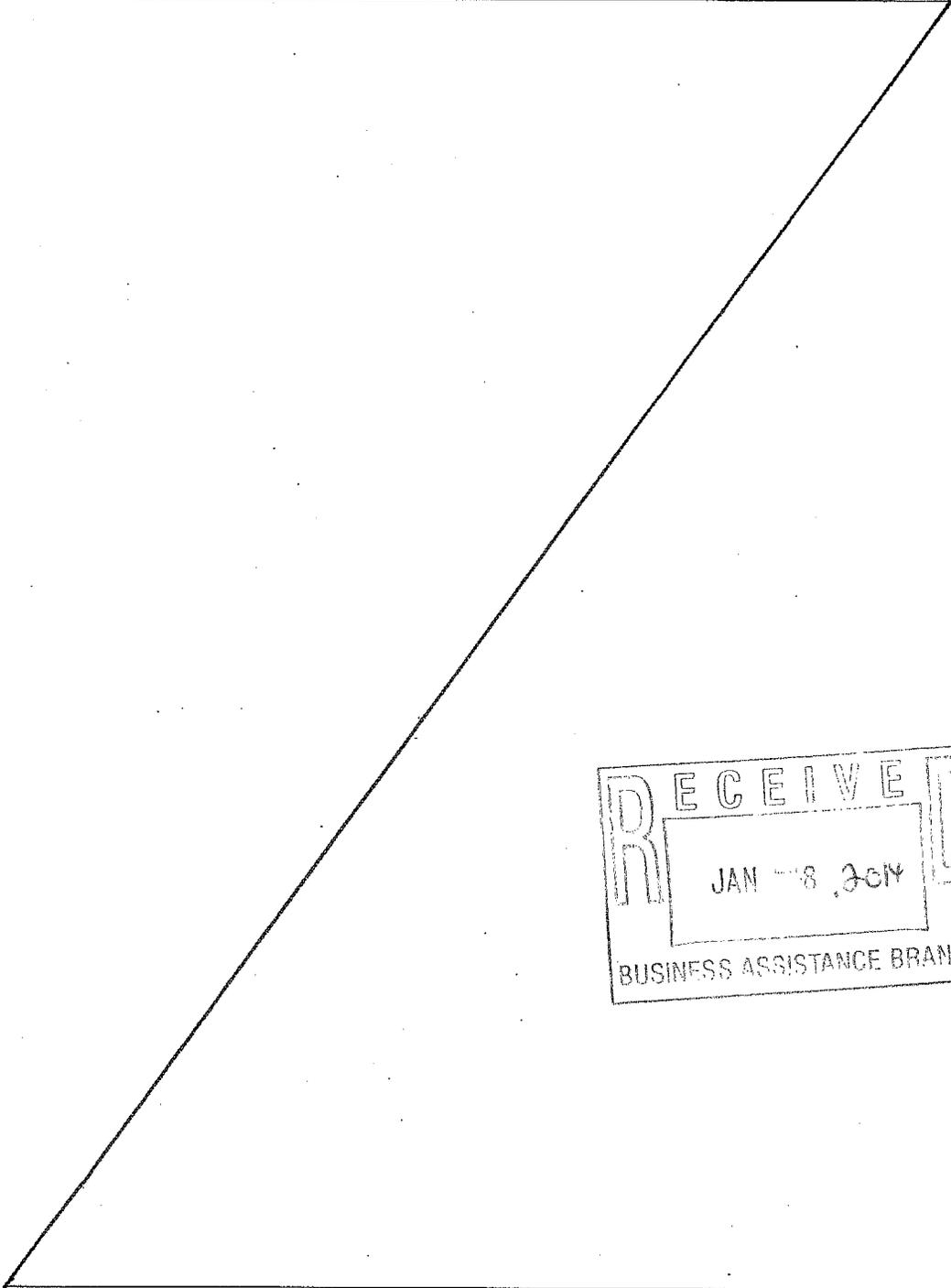
(b) The following provisions of American Society of Mechanical Engineers A17.1-2010 are adopted by reference and shall apply to existing elevators and kindred equipment as stated:

- (1) Part 1, General, shall apply to all existing elevators, escalators, moving walks, dumbwaiters, and material lifts;
- (2) Section 5.10, Elevators Used for Construction, shall apply to all existing elevators used for construction;
- (3) Section 8.1, Security, shall apply to all existing elevators, escalators, and moving walks;
- (4) Section 8.6, Maintenance, Repair, Replacement and Testing, shall apply to all existing elevators, escalators and moving walks, and dumbwaiters and material lifts with automatic transfer devices with the following amendment: Section 8.6.1.2.1(c) of

the American Society of Mechanical Engineers A17.1 is amended to read: "The written Maintenance Control Program in electronic or paper form created for the equipment is the property of the equipment owner, and shall be made available to the department and be located on site."

- (5) Section 8.7, Alterations, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (6) Section 8.8, Welding, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (7) Section 8.9, Code Data Plate, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices, except section 8.9.2 is amended to read: "The data plate shall be in plain view and securely attached to the controller door. An additional data plate shall be installed in the vicinity of the top key operated starting switch on the exterior of escalators and moving walks."
- (8) Section 8.10, Acceptance Inspections and Tests, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (9) Section 8.11, Flood Resistances, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (c) Chapter 12-240 shall apply to all elevators where the installation application was received by the department after December 6, 1990.
- (d) American Society of Mechanical Engineers 17.6 shall apply to existing elevators with other types of suspension means and steel cables less than three-eighths of an inch in diameter." [Eff]
(Auth: HRS §397-4) (Imp: HRS §397-4)

2. Chapter 12-232.1, Hawaii Administrative Rules, entitled "Personnel Hoists", is adopted to read as follows:



"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 11

ELEVATORS AND RELATED SYSTEMS

CHAPTER 232.1

PERSONNEL HOISTS

- \$12-232.1-1 Code adoption
- \$12-232.1-2 Existing personnel hoists

Historical note: Chapter 232.1 is based on chapter 232 of title 12 of the Hawaii Occupational Safety and Health Standards, Rules and Regulations. [Eff 7/12/82; am and comp 12/6/90; am 7/6/98; R]

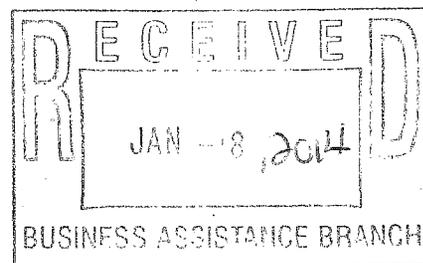
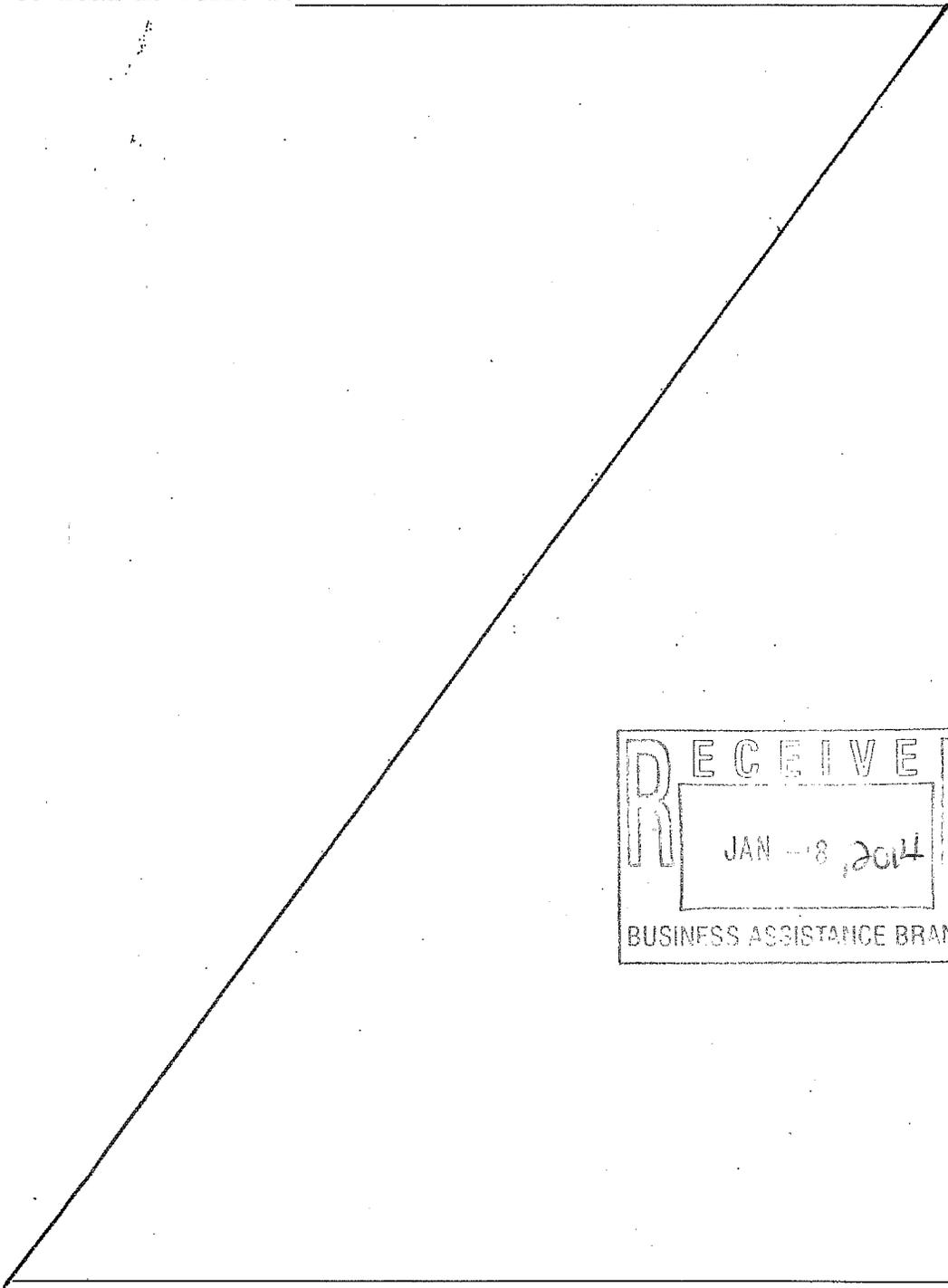
\$12-232.1-1 Code adoption. American National Standards Institute/ American Society of Safety Engineers A10.4-2007, is adopted by reference and made a part of this chapter and applies to all new and existing personnel hoists. [Eff] (Auth: HRS §397-4) (Imp: HRS §397-4)

\$12-232.1-2 Existing personnel hoists. Where the application for the installation of a personnel hoist was filed with the department before the effective date of this chapter and the applicant is unable to comply with the current

requirements, the director may grant a temporary variance without publication of a legal notice provided the applicant meets all other requirements of section 12-229-16.1."

[Eff] . (Auth: HRS §397-4) (Imp: HRS §397-4)

3. Chapter 12-234.1, Hawaii Administrative Rules, entitled "Platform Lifts and Stairway Chairlifts", is adopted to read as follows:



"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 11

ELEVATORS AND RELATED SYSTEMS

CHAPTER 234.1

PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS

- \$12-234.1-1 Code adoption
- \$12-234.1-2 Existing platform lifts and stairway chairlifts

Historical note: Chapter 234.1 is based on chapter 234 of title 12 of the Hawaii Occupational Safety and Health Standards, Rules and Regulations. [Eff. 7/12/82; am 12/19/83; am 12/8/86; am, ren, and comp 12/6/90; am 11/5/93; am 7/6/98; R]

\$12-234.1-1 Code adoption. American Society of Mechanical Engineers A18.1-2011, is adopted by reference and made a part of this chapter and applies to all new platform lifts and stairway chairlifts. [Eff]
(Auth: HRS §397-4) (Imp: HRS §397-4)

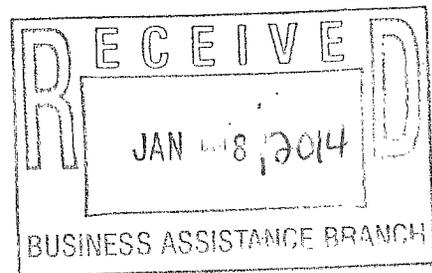
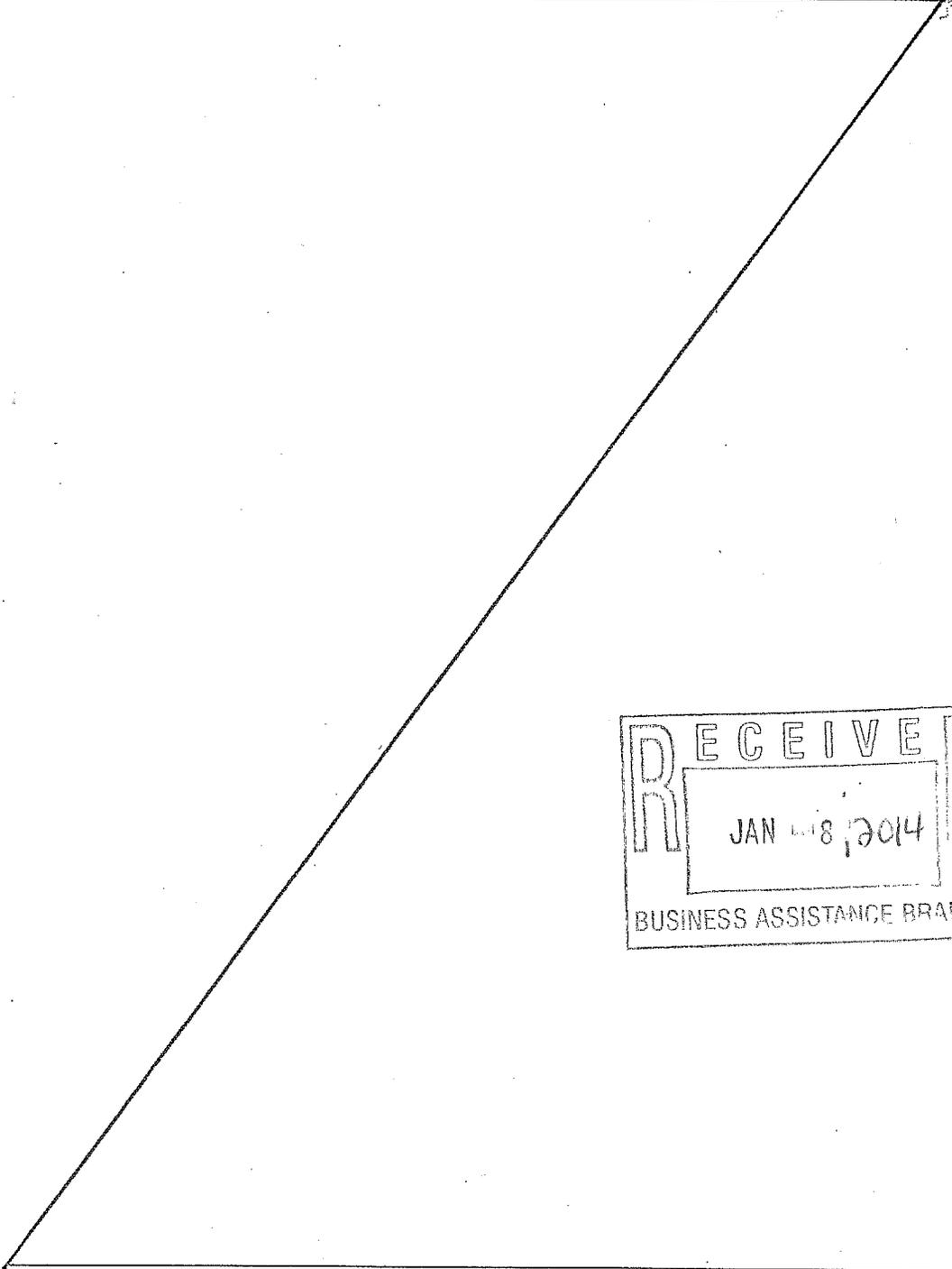
\$12-234.1-2 Existing platform lifts and stairway chairlifts. (a) Existing platform lifts and stairway chairlifts shall comply with American Society of Mechanical

Engineers A18.1 - 1999, Safety Standard for Platform Lifts and Stairway Chairlifts, as copyrighted and published in 1999 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

(b) Where the application for the installation of a platform lift or stairway chairlift was filed with the department before the effective date of this chapter and the applicant is unable to comply with the current requirements, the director may grant a temporary variance without publication of a legal notice provided the applicant meets all other requirements of section 12-229-16.1."

[Eff] (Auth: HRS §397-4) (Imp: HRS §397-4)

4. Chapter 12-229, Hawaii Administrative Rules, entitled "General, Administrative, and Legal Provisions", is amended and compiled to read as follows:



"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 11

ELEVATORS AND RELATED SYSTEMS

CHAPTER 229

GENERAL, ADMINISTRATIVE, AND LEGAL PROVISIONS

\$12-229-1	Scope and application
\$12-229-2	Definitions
\$12-229-3	Repealed
\$12-229-3.1	Codes incorporated and adopted by reference
\$12-229-4	Repealed
\$12-229-4.1	Installation and alteration permits
\$12-229-5	Repealed
\$12-229-5.1	Permits to operate
\$12-229-6	Repealed
\$12-229-6.1	Fees
\$12-229-7	Repealed
\$12-229-7.1	Inspections and tests
\$12-229-8	Repealed
\$12-229-8.1	Rights and enforcement
\$12-229-9	Repealed
\$12-229-9.1	Complaints
\$12-229-10	Repealed
\$12-229-10.1	Reporting of accidents
\$12-229-11	Repealed
\$12-229-11.1	Investigations
\$12-229-12	Repealed
\$12-229-12.1	Violations and penalties
\$12-229-13	Repealed
\$12-229-13.1	Review and appeal
\$12-229-14	Repealed
\$12-229-14.1	Trade secrets
\$12-229-15	Repealed

§12-229-15.1	Notifications of transfer and location
§12-229-16	Repealed
§12-229-16.1	Variiances
§12-229-17	Records

Historical Note: Chapter 12-229 is based substantially on chapter 12-241, Hawaii Administrative Rules. [Eff 7/6/98; R 6/19/00]

§12-229-1 [Application.] Scope and application. This part contains [elevator safety] general and administrative rules and legal provisions which apply to [Part 11.] this part. This part applies to all elevators, escalators, moving walks, dumbwaiters, material lifts, lifts for the mobility impaired, personnel hoists, and amusement rides in the State, with the following exceptions:

- (1) Equipment or apparatus installed in private residences provided the equipment or apparatus is not accessible to the general public or to other occupants in the building;
- (2) Coin or token operated amusement rides considered or known in the amusement trade as kiddie rides;
- (3) Material hoists used to raise or lower materials during construction, alteration or demolition (within the scope of ANSI A10.5); and
- (4) Equipment or apparatus installed in buildings or structures wholly owned and operated by the United States government. [Eff 6/19/00; am and comp] (Auth: HRS §394-4) (Imp: HRS §397-4)

§12-229-2 Definitions. As used in [part 11:] this part:

"Alteration" means [a] any change [in any item described on the original Manufacturer's Data Report or specification other than maintenance, repair, or replacement; additional mechanical tests are required.] to equipment, including parts, components, or subsystems other than maintenance, repair or replacement.

"Amusement ride" means a mechanically or electrically operated device designed to carry passengers in various modes and used for entertainment and amusement.

"ANSI" means the American National Standards Institute.

["ANSI A12.1" means ANSI A12.1-1973, Safety Requirements for Floor and Wall Openings, Railings, and Toeboards.

"ANSI B29.1" means ANSI B29.1-1975, Precision Power Transmission Roller Chains, Attachments, and Sprockets.

"ASME A17.2" means ASME A17.2.1 1996, Inspectors Manual for Elevators and Escalators.]

"ANSI/American Society of Safety Engineers A10.4" means ANSI/ASSE, Personnel Hoists and Employee Elevators on Construction and Demolition Sites, as adopted and incorporated by reference in section 12-229-3.1.

"Appeals board" means the labor and industrial relations appeals board, department of labor and industrial relations.

"Approved" means approved by the department.

"Appurtenance" means a device installed on and used in the normal operation of an elevator, escalator [and] ,or kindred equipment.

"ASME" means American Society of Mechanical Engineers.

"ASME A17.1" means [ASME A17.1-1996,] ASME A17.1, Safety Code for Elevators and Escalators[.], as adopted and incorporated by reference in section 12-229-3.1.

"ASME A17.3" means ASME A17.3, Safety Code for Existing Elevators and Escalators, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A17.6" means ASME A17.6, Standard for Elevator Suspension, Compensation and Governor Systems, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A18.1" means ASME A18.1, Safety Standard for Platform Lifts and Stairway Chairlifts, as adopted and incorporated by reference in section 12-229-3.1.

"ASTM" means American Society for Testing and Materials.

"ASTM-F24" means ASTM-F24 1997 standard on amusement rides and devices.

"Attorney general" means the attorney general of the State of Hawaii or any of the attorney general's deputies.

"Authority Having Jurisdiction" or "AHJ" , means the director of labor and industrial relations or the director's designee.

"Authorized inspection agency" means the department of labor and industrial relations, elevator inspection section.

"Building code" means the currently adopted, applicable county code in the revised ordinances of the applicable county, or the code adopted by the State of Hawaii for state buildings.

["Bungee jumping" means jumping, diving, stepping out or otherwise being released into the air while attached to a bungee cord.]

"Certificate of competency" means a certificate issued to a person who has passed the examination prescribed by the director.

"Contractor" means any person, firm, or corporation installing, repairing, or servicing [and responsible for the safe operation of] any amusement ride, elevator [and], or kindred equipment or structure inspected pursuant to chapter 397, HRS.

"Department" [or "DLIR"] means the department of labor and industrial relations, State of Hawaii.

["Diameter" means tread diameter when used in specifying sheaves, wheels, or pulleys.]

"Director" means the director of the department of labor and industrial relations or the director's designee.

"Discrepancy" means the non-conformance [of] to codes, standards, rules, or regulations required by [part 11 of this subtitle.] this part.

"Division" [or "HIOSH"] means the Hawaii occupational safety & health, department of labor and industrial relations, State of Hawaii.

"Elevator" means a hoisting and lowering mechanism [permanently installed in a structure, designed to carry passengers,] equipped with a car [or platform which] that moves [in fixed] within guides and serves two or more fixed landings[.], and is classified by elevator types as described in ASME A17.1, as adopted and incorporated by reference in section 12-229-3.1.

["Elevators and kindred equipment" means elevators, escalators, dumbwaiters, moving walks, manlifts, accessibility lifts, inclined passenger lifts, personnel hoists, aerial tramways, personal automatic trains, and any other similar mechanized equipment used to convey people in places other than a public right-of-way.]

"Elevators and related systems" means elevators and kindred equipment and amusement rides.

"Existing installation" means any device or equipment where the application for the installation was properly filed with the department before the effective date of the this chapter.

["Factor of safety" is the number by which a given permissible force, or load, value can be multiplied before the structure machine or device reaches its ultimate design strength value.]

"Hawaii Revised Statutes" or "HRS" means laws enacted by the Hawaii [State Legislature.] state legislature.

"IBC" means the International Building Code, as adopted and incorporated by reference in section 12-229-3.1.

["Inclined passenger lift" means a device constructed and operated for transporting persons from one elevation to another consisting essentially of a level car or platform traveling on guide rails in an inclined plane. Devices installed indoors on stairways and utilizing chairs for carrying passengers are not considered to be inclined passenger lifts.

"Inspector" means any elevator inspector appointed by the director and employed by the department holding a valid certificate of competency issued by the department.]

"Installation" means a complete elevator or kindred equipment, including its hoistway, hoistway enclosures and related construction, and all machinery and equipment necessary for its operation.

"Installation or alteration permit" means a document, which may be electronic, issued by the department authorizing the installation or alteration of an elevator or kindred equipment, or the department approval of a new amusement ride.

"Kindred equipment" means escalators, moving walks, dumbwaiters, permanently installed material lifts, platform lifts, stairway chairlifts, personnel hoists, and any other similar mechanized equipment used to convey people in places other than a public right-of-way, but does not include amusement rides.

"May" means [permissive.] not mandatory.

"New installation" means any device or equipment that is not an existing installation or an existing installation that is being relocated.

"NFPA" means the National Fire Protection Association.

"NFPA 1, UFC" means the NFPA 1, Uniform Fire Code, as adopted and incorporated by reference in section 12-229-3.1.

"NFPA 70" means NFPA 70 [1996], National Electrical Code[.], as adopted and incorporated by reference in section 12-229-3.1.

"Operating permit" means a permit issued by the department authorizing the operation of an elevator [and], kindred equipment[.], or amusement ride.

"Order" means a command to perform a mandatory act issued by the department.

"Overtime" means hours outside a regular eight-hour working day.

"Owner" means any person, firm, or corporation with legal title to any amusement ride, and elevator and kindred equipment

inspected pursuant to chapter 397, HRS [who may or may not be the user].

"Permit to operate" means a document, which may be electronic, issued by the department authorizing the operation of an elevator, kindred equipment or an amusement ride.

"Qualified inspector" means an elevator inspector appointed by the director and employed by the department holding a valid certificate of competency issued by the department. The certificate of competency is valid only while the inspector is employed by the department.

"Regular operating permit" means an operating permit that is not indicated as temporary.

["Safe" means freed from harm.

"Safety" means a mechanical device attached to the car frame or to the counterweight, when provided, to stop and hold the car or counterweight in case of predetermined overspeed-or free fall, or if the suspension ropes slacken.]

"Shall" means mandatory.

["Uniform Building Code" means the Uniform Building Code, 1994.]

"Unsafe" means [exposed] potential exposure to [danger or risk.] a recognized hazard.

["User" means any person, firm, or corporation legally in possession and responsible for the operation of any amusement ride, elevator and kindred equipment inspected pursuant to chapter 397, HRS.

"Vendor" means any person, firm, or corporation that sells or distributes any amusement ride, and elevator and kindred equipment required to be inspected pursuant to chapter 397, HRS.]

"Violation" means [non-conformance of an item, or part to codes, standards, rules, or regulations required by this subtitle.] the failure to comply with any citation, notice, or order of the department, or rule or standard promulgated under chapter 397, HRS.

["Welding documentation" means welding procedure specifications, procedure qualification records, records of performance qualification, and reports of welded repairs or alterations.] [Eff 6/19/00; am and comp]

(Auth: HRS §397-4) (Imp: HRS §397-4)

[§12-229-3 Permits. (a) An installation permit shall be issued by the department based on the approval of drawings and specifications pertaining to the installation or alteration of elevators and kindred equipment; operating permits shall be issued by the department on the basis of the report of the acceptance inspection and each permit inspection.

(b) No person shall install, construct, reconstruct, relocate, or make an alteration to any elevator and kindred equipment without first obtaining an installation permit from the department. An application on the prescribed form shall be submitted and approved prior to commencement of work. Such application shall consist of applicant's name, address and license number, date of application, building name and address of installation/alteration. The date of installation/alteration and anticipated completion, type of equipment to be installed/altered, manufacturer of equipment, maximum rise and number of floors shall also be included. For personnel hoists, name of installer and proof of new ropes used (letter from rope manufacturers) at time of testing for contractors' use shall be submitted. The application shall be deemed approved if not acted on by the department within thirty working days following the receipt of such application.

- (1) The plans and specifications for installation or alteration of elevators and kindred equipment together with such buildings details as are pertinent to the installation shall be submitted to the department before any work is begun on the installation. Final shop drawings shall be submitted to the department. Plans shall be resubmitted for any project on which the installation has not commenced within three years of the plan approval date. Copies of engineering data, tests, and laboratory reports, and any other pertinent information deemed necessary by the department shall be submitted by the installer on any new equipment or appurtenance to be installed for the first time in the State of Hawaii.
- (2) An installation permit as required under subsection (a) above shall be issued only to a person who is licensed to engage in the business of installing or repairing elevators and kindred equipment by the contractors license board of the department of commerce and consumer affairs, State of Hawaii.

- (A) All major repairs performed on elevators, escalators and kindred equipment shall be reported to the department.
 - (B) All major repairs performed on elevators, escalators and kindred equipment as described in ASME A17.1 Part XII shall require an installation permit as described in subsection (a) above.
 - (C) Any alteration, renovation, or change to the original design of the car's interior need not require an installation permit except:
 - (i) Where the alteration, renovation, or change increases the gross weight of the car by more than five percent;
 - (ii) Where interior components of the car are fastened in other than the original installation method or are less able to withstand breakage or shattering upon impact than the original design components; or
 - (iii) Where the combustibility of the car's interior materials is made greater.
 - (D) The owner, user, contractor, or designer shall be responsible for furnishing to the department all documentation required and referenced in the standards and codes adopted by the department for construction, repair, or alteration of any elevator and kindred equipment, or amusement ride. The application shall be deemed approved if not acted on by the department within fifteen working days following the receipt of such application.
- (3) The maximum period of time established pursuant to this section shall be extended in the event of a national disaster, state emergency, or union strike which would prevent the applicant or the department from fulfilling application review requirements until such time the emergency conditions improve or are reasonably under control.
- (4) The department shall, before issuance of a permit for installing, constructing, reconstructing, or relocating as required under subsection (a) above, charge and collect a fee for each permit in accordance with the schedule in tables 229-1 and 229-2, in section 12-229-16.
- (c) The department shall issue a "permit to operate" for any elevator and kindred equipment required by the

department to be inspected when they are found to be safe and in compliance with this subtitle by a qualified inspector. It shall be unlawful for any person, firm, association, partnership, or corporation to operate an elevator and kindred equipment regulated by this chapter unless a permit for the operation has been authorized by the department and the permit remains in effect.

- (1) A permit to operate an elevator and kindred equipment shall be issued to the owner or user only after an inspector has found that the device has met all requirements of this chapter.
- (2) A permit to operate elevators and kindred equipment shall be valid for one year; or until the expiration date unless revoked sooner, and may be renewed only upon completion of an inspection by an inspector. A valid permit may be extended for cause by the department if so requested in writing by the owner or user.
- (3) The permit to operate shall indicate the type of equipment for which it is issued. In the case of elevators, the permit shall state whether it is passenger or freight, and the rated load and speed for the elevator, dumbwaiter, escalator, or moving walk. The permit to operate shall be posted conspicuously in the car of the elevator and on or near the dumbwaiter, escalator, or moving walk. Exception: Elevator operating permits may be posted in a secure manner under a transparent cover or in a suitable case or cabinet and in such a way that they are reasonably easy to read, in a location approved by the department provided that, in each elevator car there is a permanent sign, conspicuously displayed, in letters not less than 1/4-inch high, that identifies the elevator by the owner's designator (number, letter, or name) and states where the operating permits may be seen. The permits for all elevators serving a common main lobby (i.e., those responding to a common main floor call button) may be grouped in a common display providing the permits are arranged in a logical order and are identified by their corresponding car designator.
- (4) The department may immediately revoke any "permit to operate" for any equipment, required to be inspected by this chapter, found to be in an unsafe condition or when a user, owner, or contractor

ignores department orders to correct specific defects or hazards and continues to use or operate the above mentioned apparatus without abating the hazards or defects.

- (5) The department shall re-issue a "permit to operate" to any user, owner, or contractor who demonstrates good faith in proceeding to abate all nonconforming conditions specified in department orders provided the elevators and kindred equipment are safe to operate.
 - (6) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying elevator and kindred equipment are being brought into full compliance with chapter 397, HRS.
 - (7) No amusement ride, or elevator and kindred equipment which is required to be inspected by chapter 397, HRS, or by any rule adopted pursuant to chapter 91, HRS, shall be operated except as necessary to install, repair, or test unless a permit to operate or certificate of inspection has been authorized or issued by the department and remains valid.
 - (8) The department may, upon the application of any owner or user or any other person affected thereby, grant a reasonable period of time as may be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time.
- (d) Certificates of inspection shall be issued for amusement rides after each inspection if the rides are found to be safe and in compliance with ASTM-F24 and section 12-250-1.]
 [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-3.1 Codes incorporated and adopted by reference.
The following codes are incorporated and adopted by reference and made a part of this chapter and shall apply to elevators, kindred equipment, and amusement rides in this part, unless otherwise modified by the rules pertaining to elevators, kindred equipment, and amusement rides.

- (1) ANSI/ASSE A10.4-2007, Personnel Hoists and

- Employee Elevators on Construction and Demolition Sites, as copyrighted and published in 2007 by American National Standards Institute, Inc., 25 West 43rd Street, New York, NY 10036.
- (2) ASME A17.1-2010/CSA-B44-10, Safety Code for Elevators and Escalators, as copyrighted and published in 2010 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (3) ASME A17.3-2011, Safety Code for Existing Elevators and Escalators, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (4) ASME A17.5-2011, Elevator and Escalator Electrical Equipment, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (5) ASME A17.6-2010, Standard for Elevator Suspension, Compensation and Governor Systems, as copyrighted and published in 2010 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (6) ASME A18.1-2011, Safety Standard for Platform Lifts and Stairway Chairlifts, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (7) International Building Code, 2012 edition, as copyrighted and published in 2012 by the International Code Council, Incorporated, 500 New Jersey Avenue, 6th Floor, Washington, DC 20001.
- (8) ICC A117.1-2009, Accessible and Usable Buildings and Facilities, as copyrighted and published in 2010 by the International Code Council, Incorporated, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.
- (9) NEPA 1, Uniform Fire Code, 2009 Edition, as copyrighted and published in 2009 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471.
- (10) NEPA 72, National Fire Alarm and Signaling Code, 2010 edition, as copyrighted and published in 2010 by the National Fire Protection

Association, 1 Batterymarch Park, Quincy, MA 02269-7471.

- (11) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 edition, as copyrighted and published in 2010 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471.
- (12) NFPA 70, National Electrical Code, 2011 edition, as published in 2011 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471. [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

[§12-229-4 Fees (a) Departmental inspection fees.

- (1) The department shall charge and collect from the owner, user, or contractor, the fee listed in table 229-2, in section 12-229-16 for each inspection made by an inspector during regular working hours. The department shall charge and collect a permit processing fee as listed in table 229-2 in section 12-228-16 for each object inspected.]
- (2) When it is necessary to make a special trip to witness a test, an additional fee based upon the scale of fees for a permit inspection for the object under test shall be charged.
- (3) For all other inspections and services, the fee shall be \$75 per hour but not less than \$150 per occurrence during regular working hours and \$150 per hour but not less than \$200 per occurrence when performed outside regular working hours at the request of the beneficiary.
- (4) Scheduled inspections delayed or cancelled by the beneficiary, too late to prevent the arrival of the inspector on the premises shall be charged for in accordance with the scheduled fee for the type inspection; however, if the notice of cancellation or delay of the scheduled inspection is given in time to prevent the incurring of travel expenses, fee will be charged.
- (5) The charge for a rescheduled inspection or a call back inspection to allow an elevator and kindred equipment to operate may be at the scheduled fee for the type of

- inspection or for the expenses actually incurred, whichever is greater.
- (6) When an unscheduled inspection is made at the request of and for the benefit of an owner, user, contractor, or vendor, the sum of expenses incurred shall be charged in addition to the inspection fee.
 - (7) Whenever the beneficiary of an inspection fails to pay the fees required under this section within sixty days after notification, the beneficiary shall pay, in addition to the fees required, a penalty equal to fifty per cent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification.
 - (8) Departmental reports of inspections for which expenses must be added to the basic fee shall be accompanied by an itemized account of the inspections made and the expenses incurred.
 - (9) For those elevators, such as observation or deep well elevators, which have considerable rise but few openings, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
 - (10) The department shall charge and collect the fee listed in table 229-2 in section 12-229-16 for each five or three year test of safety devices, governors, relief valves, pressure containing parts, and other safety equipment, witnessed by personnel of the department during regular working hours.
- (b) Departmental installation permit and test fees.
- (1) The department shall, before issuance of a permit for installing, constructing, re-constructing, or relocating, charge and collect a fee for each object in accordance with table 229-1 in section 12-229-16.
 - (2) The department shall, before issuance of a permit for a major alteration, charge and collect a fee for each object in accordance with table 229-1 in section 12-229-16.
 - (3) For each instance requiring an installation permit fee, the department shall provide:
 - (A) The plan review, inspection and witnessing of the acceptance test on the installation and one additional followup inspection; the followup inspection shall be at the convenience of the department. Any additional inspections required for final acceptance will be at the expense of the beneficiary of the inspection and may be at

- the convenience of the beneficiary provided all the expenses incurred are paid by the beneficiary and forty-eight hours advance notice is given to the department;
- (B) The processing and issuance of the temporary permit to operate; and
 - (C) The processing and issuance of the final permit.
- (5) Fees in accordance with table 229-1 in section 12-229-16 or the fee in effect on the application submittal date shall be charged and collected for all installation permits issued.
 - (6) For more than one additional inspection for final acceptance, the department may charge and collect from the beneficiary an additional amount in accordance with paragraph (a) (3) above.
 - (7) For those elevators, such as observation or deep well elevators, which have considerable rise but few openings, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
 - (8) The department shall charge and collect the sum of \$195 for each test of safety devices, governors, and other safety equipment, witnessed by personnel of the department during regular working hours.
 - (9) The department shall charge and collect the sum of \$160 for each test of relief valves, pressure containing parts and other safety equipment, witnessed by personnel of the department during regular working hours.
 - (10) For plan and specification reviews and all other services, except for new installation and modernization reviews, the fee shall be \$75 per hour but not less than \$150 per occurrence during regular working hours. For all services rendered outside of regular working hours which have been requested by the beneficiary, the fee shall be \$150 per hour but not less than \$200 per occurrence. Inspections made under this paragraph and paragraph (a) (1) above may include, but are not limited to, field erection inspections, planning or advisory inspections requested by a beneficiary, and other special inspections or reviews.
- (c) Other required fees. Reserved.
 - (d) Amusement rides, certificate of inspection fees.
 - (1) For a first time inspection and for inspections described in paragraph (3) below, the department shall charge a fee of \$75 per hour during regular working

hours and \$150 per hour at other times. No inspection shall be considered as less than one hour and each fraction of one quarter hour or greater shall be counted as a full hour.

- (2) Inspections, for which a fee is to be charged, shall include, but are not limited to:
 - (A) A reinspection of a ride at a site to allow it to operate at that site after the ride was found at an earlier inspection to be unsafe;
 - (B) An inspection made at a site after being unable to complete an earlier inspection at that site due to delay within control of the beneficiary;
 - (C) A certificate inspection; and
 - (D) Scheduled inspections delayed or canceled by the beneficiary too late to prevent the arrival of the inspector on the premises.
- (3) When an unscheduled inspection is made at the request of and for the benefit of the owner or user, the sum of expenses incurred shall be charged in addition to the inspection fee.
- (4) Whenever the beneficiary fails to pay the fees required under this section within sixty days after notification, the beneficiary shall pay, in addition to the fees required, a penalty equal to fifty per cent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification.]
 [Eff 6/19/00; R] (Auth: HRS §397-4)
 (Imp: HRS §397-5)

§12-229-4.1 Installation and alteration permits. (a) No person shall install, construct, reconstruct, relocate, or make an alteration to any elevator or kindred equipment subject to this part without first obtaining an installation or alteration permit from the department. Owners of new or altered amusement rides must register the new apparatus or its alteration by submitting an application for review and registration of the ride.

The owner shall be responsible for contracting the work with a licensed contractor, and shall ensure that the contractor obtains all permits and inspections required by this part. The contractor shall be responsible for the safe operation of equipment during the installation, alteration or relocation, until a permit to operate has been issued by the department.

An application on a form prescribed by the department shall be submitted and approved prior to commencement of work. The application shall include:

- (1) Applicant's name (contractor licensed to perform the work), business address and license number, expiration date of the license, name and contact information of the licensed mechanic or supervisor in charge of the work;
- (2) Building name and complete address, including island and zip code, of the installation or alteration;
- (3) The name and complete address of the legal owner of the elevator, kindred equipment, or amusement ride;
- (4) The anticipated start date of the installation or alteration and the anticipated completion date;
- (5) The type of equipment to be installed or altered, manufacturer of equipment, maximum rise and number of floors;
- (6) The plans and specifications for installation or alteration of elevators and kindred equipment together with the building details that are pertinent to the installation;
- (7) Copies of engineering data, tests, and laboratory reports, and any other pertinent information deemed necessary by the department;
- (8) For amusement rides, the application to review, approve and register the new apparatus shall be submitted on a form authorized by the department and shall include manufacturer's drawings, and engineering and test data; and
- (9) Any other information indicated as required by the application.

(b) Applications to install, alter, or register must be accompanied by the remittance of the appropriate installation or alteration processing fee for each conveyance subject to this part as per the schedules in Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter, and Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated July 1, 2012,

which is made a part of this chapter and located at the end of this chapter.

(1) Refunds of the initial installation or alteration processing fee minus the department's cost to review the application thus far may be refunded upon written request to the department. A refund of the initial installation or alteration processing fee may be granted upon satisfactory showing that the withdrawal or amendment of the application was due to circumstances beyond the control of the applicant.

(2) No refunds will be issued for expired permits.

(c) Only a person who is licensed to engage in the business of installing or repairing elevators and kindred equipment by the contractors license board of the Hawaii department of commerce and consumer affairs may apply for an installation permit or alteration permit, except the application to install a personnel hoist may be made by a licensed construction contractor and the application to register an amusement ride may be made by the owner.

(d) All alteration work on elevators and kindred equipment requires an alteration permit prior to the work being performed.

Alteration work includes:

(1) All alterations to elevators and kindred equipment as described in ASME A17.1, section 8.7, and

(2) Any alteration that requires the equipment or conveyance to be tested by the department prior to being returned to service, including:

(A) The replacement or repair of any part or parts that would require recalibration or testing per ASME A17.1, section 8.7; or

(B) Work performed on components or equipment affecting or necessary for fire safety (e.g. cab interiors, systems associated with fire recall, etc.); and

(3) Any alteration, renovation, or change to the original design of the car's interior.

(e) The application shall be deemed approved if not acted on by the department within thirty calendar days following the receipt of the completed application. The maximum period of time for the department to act on an application for installation or alteration established pursuant to this section shall be extended in the event of a national disaster, state emergency, or union strike that would prevent the applicant or the department from

fulfilling application review requirements until the time the emergency conditions improve or are reasonably under control.

(f) Installation or alteration permits issued by the department shall be posted in a conspicuous place on the jobsite prior to the start of any work being done. They shall remain posted until the department has witnessed all acceptance tests and issued an operating permit for the elevator or kindred equipment.

(g) Installation or alteration permits shall expire within one year of the issuance date if the installation or alteration work described on the application has not yet commenced. Otherwise, the permit is valid for a period of three years.

(h) All new elevators and kindred equipment shall have the Hawaii registration number assigned by the department painted on or permanently attached to both the driving mechanism and the controller. The owner is responsible for having the registration number painted on or attached to the device or equipment, and ensuring that the number remains legible. [Eff and comp] (Auth: HRS §394-4) (Imp: HRS §397-4)

[§12-229-5 Inspections and tests. (a) The department shall inspect to ensure compliance with chapter 397, HRS, any activity related to the erection, construction, alteration, demolition, or maintenance of buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, underground pipelines or ducts, and other construction projects or facilities containing elevators and kindred equipment. All equipment required by this section to be inspected is exempt from the requirements of this chapter, if under the jurisdiction of the United States government or if serving only a private residence and not accessible to the general public except where the location could affect persons other than the owner or owners.

(b) Elevators, dumbwaiters, escalators, and moving walks.

(1) All safety inspections and witnessing of tests of elevators, dumbwaiters, escalators, and moving walks, as required under this chapter, shall be made in conformance with the procedures set forth in ASME A17.1 1996 and ASME A17.2 1996 and shall be performed by inspectors employed by the department.

(2) Where notations of discrepancies, recommendations, or requirements are made, these notations shall refer to

the applicable rule or standard of ASME A17.1 1996, ASME A17.2 1996, or of this chapter.

- (3) The owner or user of any elevator, dumbwaiter, escalator, or moving walk operated within the state shall have it inspected in accordance with the following schedules:
- (A) Elevators, dumbwaiters, manlifts, aerial tramways, personal automatic trains and kindred equipment shall be inspected once in each twelve month period. The period between the first inspection, or the inspection used as a basis for the issuance of a permit to operate, and the subsequent inspection each year shall not exceed thirteen months nor be less than eleven months;
 - (B) Escalators, moving walks, speed ramps, inclined passenger lifts, and deep well elevators shall be inspected twice in each twelve month period. The period between the first inspection or the inspection used as a basis for the issuance of a permit to operate and the second or interim inspection each year shall not exceed seven months nor be less than five months;
 - (C) For electric elevators, a full-load, full-speed performance test shall be made of safeties, governors, and oil buffers at intervals not greater than sixty months; and
 - (D) For hydraulic elevators, the over-pressure protection device shall be tested for proper operation and the pressure containing parts for soundness when subjected to a load of 1-1/4 times the design capacity at intervals not exceeding thirty six months unless more frequent tests are specified by the department. The load test may be waived or the interval extended at the discretion of the department for those hydraulic elevator installations such as holeless hydraulic elevators in which all components are readily accessible for visual inspection.

The period between inspections may be extended by the department for cause. A written application by the owner-user must be received.

- (4) Any elevator, dumbwaiter, escalator, or moving walk not inspected in accordance with paragraph (3) shall be taken out of service by the department.

- (5) When an inspector discovers an unsafe condition in connection with an inclined passenger lift that is not specifically addressed in section 12-235-1, the inspector shall issue an order requiring the owner to make all changes, improvements, or repairs as may be necessary.
- (6) Each inclined passenger lift shall be inspected twice each year by the department.
- (d) Amusement devices.
 - (1) The department shall inspect and witness load tests, in accordance with ASTM-F24 and section 12-250-7 at least semi-annually, for all mechanically- or electrically-operated devices considered as major rides and used as amusement rides at a carnival, circus, fair, or amusement park for the purpose of protecting the safety of the general public. Safety standards for amusement rides are prescribed in chapter 12-250. This section shall not apply to any coin-operated, mechanically-, or electrically-operated devices considered or known in the amusement trade as kiddie rides.
 - (2) After the initial inspection, each amusement ride shall be inspected as often as necessary to ensure safe operation but not less than twice annually at intervals of not less than five months nor greater than seven months.
 - (3) Certificate of inspection. If the department finds, upon inspection, that an amusement ride is in a safe operating condition and meets with the requirements of this chapter and chapter 12-250, the department shall affix to the ride in a prominent location a certificate of inspection bearing upon its face the date of the inspection.
 - (4) No ride shall be operated unless it has affixed to it a certificate of inspection bearing a date less than seven months past.] [Eff 6/19/00;
R] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-5.1 Permits to operate. (a) The department shall issue a "permit to operate" for any elevator, kindred equipment, or amusement ride where the inspection and tests required by the department show that the equipment has been designed and installed in accordance with the requirements of chapter 397,

HRS, and its related rules, and are in compliance with this part. It shall be a violation for any person, firm, association, partnership, or corporation to operate an elevator, kindred equipment, or amusement ride regulated by this part unless a permit for the operation has been issued by the department and the permit remains in effect.

(b) A permit to operate an elevator or related systems shall be issued only after a qualified inspector has determined that the equipment, device, or apparatus meets all applicable requirements of this part. A permit to operate elevators or kindred equipment shall be valid for one year, unless revoked sooner, and may be renewed only upon satisfactory completion of an inspection by a qualified inspector. A valid permit may be extended for cause by the department if so requested in writing by the owner or contractor prior to the expiration date.

(c) The owner, or the owner's duly appointed agent, shall be responsible for:

- (1) The safe operation and proper maintenance of elevators and kindred equipment after the installation or alteration has been approved and an initial permit to operate has been issued;
- (2) Conducting all periodic or maintenance tests required by this part;
- (3) Arranging for inspections of closed buildings by qualified inspectors. Elevators and kindred equipment not inspected as a result of the owner's failure to provide convenient access shall be considered removed from service and shall comply with section 12-229-7.1(b) (4); and
- (4) Requesting and scheduling with the department all safety tests in accordance with the schedule in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter.

(d) The permit to operate shall indicate the type of equipment for which it is issued. In the case of elevators and kindred equipment, the permit shall state whether it is passenger or freight, and the rated load and speed for the elevator, dumbwaiter, escalator, or moving walk. The permit to operate shall be posted conspicuously in the car of the elevator, and on or near the dumbwaiter, escalator, moving walk, or other kindred equipment. Where posting the permit to operate in the elevator car is impractical or infeasible, the owner may petition the director to allow posting in another location in the building.

The petition for an alternate posting location shall only apply to regular operating permits, and shall comply with the following conditions:

- (1) The current permit to operate must be available for review by passengers of the elevator whenever the elevator is in operation; and
- (2) There is a permanent sign within the elevator, conspicuously displayed, in letters not less than 1/4-inch high, that identifies the equipment by the state registration number and states where the operating permit may be viewed.

(e) The department may immediately revoke any permit to operate for any equipment required to be inspected by this chapter that is found to be in an unsafe condition; or when an owner or contractor fails to comply with a department order to correct specific defects or hazards and continues to use or operate the equipment, device, or apparatus without abating the hazards or defects.

The department shall reissue a permit to operate when a subsequent inspection by a qualified inspector finds that the hazardous condition has been corrected or when the department receives documentation that the noncompliant item has been abated.

(f) Exhibit C, titled "Inspection and Test Intervals (In Months)", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter, establishes the required maximum intervals for the periodic reinspection and renewal of the permits to operate. The department may require that specific equipment be re-inspected more frequently if conditions found during an inspection require closer or more frequent monitoring to ensure its safe operation.

(g) The department may provide for the issuance of a temporary permit to operate while any noncomplying elevator or kindred equipment is being brought into full compliance with chapter 397, HRS.

(h) The owner or contractor may petition the department for additional time to correct any discrepancy or violation by submitting a request in writing by no later than the correction due date or the expiration date of the temporary permit, whichever is applicable, and shall include:

- (1) Specific additional time needed;
- (2) Efforts made to date to effect correction; and
- (3) Any interim steps or actions taken to ensure the safe operation of the equipment, device, or apparatus.

(i) No elevator, kindred equipment, or amusement ride that is required to be inspected pursuant to chapter 397, HRS, shall

be operated except as necessary to install, repair, or test the elevator, kindred equipment, or amusement ride unless a permit to operate has been issued by the department and remains valid.

[Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

[§12-229-6 Rights and enforcement. (a) Rights.

- (1) Authorized representatives of the director may enter without delay during regular working hours and at other reasonable times, any place, establishment, or premises in which are located amusement rides, and elevators and kindred equipment requiring inspection pursuant to chapter 397, HRS.
 - (2) The department may question any employer, owner, operator, agent, or employee in investigation, enforcement, and inspection activities covered by this chapter.
 - (3) Any employee of the State acting within the scope of the employee's office, employment, or authority under this chapter shall not be liable for or made a party to any civil action growing out of administration and enforcement of chapter 397, HRS.
- (b) Enforcement.
- (1) Whenever right of entry to a place to inspect amusement ride, or elevator and kindred equipment required by this chapter to be inspected is refused to an authorized representative of the director, the department may apply to the circuit court where the place exists for a search warrant providing on its face that the wilful interference with its lawful execution may be punished as a contempt of court.
 - (2) Whenever the department finds that the construction of or the operation of any amusement ride, or elevator and kindred equipment required to be inspected by this chapter is not safe, or that any practice, means, method, operation, or process employed or used is unsafe or is not in conformance with the standards and codes adopted pursuant to chapter 91, HRS, the department shall issue an order to render the construction or operation safe or in conformance with chapter 397, HRS, or standards and codes and deliver the same to the contractor, owner, or user. Each order shall be in writing and may be delivered by mail or in person. The department may in the order direct that,

- in the manner and within a time specified, such additions, repairs, improvements, or changes be made and such safety devices and safeguards be furnished, provided, and used as are reasonably required to ensure compliance with the purposes and provisions of chapter 397, HRS. The owner, user, or contractor shall obey and observe all orders issued by the department or be subject to appropriate civil penalties.
- (3) Whenever, in the opinion of the department, the condition of or the operation of amusement rides, or elevators and kindred equipment required to be inspected by chapter 397, HRS, or any practice, means, method, operation, or process employed or used, is unsafe, or is not properly guarded, or is dangerously placed, its use may be prohibited by the department. An order to that effect shall be posted prominently on the equipment or near the place or condition referred to in the order. The order shall be removed when a determination has been made by an authorized representative of the department that the amusement rides, or elevators and kindred equipment are safe and the required safeguards or safety devices are provided.
- (4) Pursuant to paragraph 397-4(d)(4), HRS, when an imminent hazard exists, the department may apply for a restraining order from a circuit court to effect enforcement restraining the use or operation until the use or operation is made safe.
- (5) Pursuant to paragraph 397-4(d)(5), HRS, the director, or an authorized representative, shall have the same powers as are possessed by the court respecting administering of oaths, compelling attendance of witnesses, producing documentary evidence, and examining witnesses or causing them to be examined, and may take depositions and certify to official acts.
- (6) Where a condition or practice involving any amusement ride, or elevator and kindred equipment required to be inspected by chapter 397, HRS, could reasonably be expected to cause death or serious physical harm, the department shall have the right, independent of any other enforcement powers under this chapter, to:
- (A) Immediately take steps to obtain abatement by informing the owners, users, contractors, and all persons in harms way of the hazard by meeting, posted notice, or otherwise;

- (B) Take steps to immediately obtain abatement through direct control or elimination of the hazard if, after reasonable search, the user, owner, contractor, or their representative is not available;
 - (C) Take steps to obtain immediate abatement when the nature and imminency of the danger or hazard does not permit a search for the owner, user, or contractor; and
 - (D) Where appropriate, initiate necessary legal proceedings to require abatement by the owner, user, or contractor.
- (7) The department may prosecute, defend, and maintain actions in the name of the department for the enforcement of the provisions of chapter 397, HRS, including the enforcement of any order issued by it, the appeal of an administrative or court decision, and other actions necessary to enforce chapter 397, HRS.] [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6, 397-8)

§12-229-6.1 Fees. (a) Departmental inspection fees.
The department shall collect from the owner or contractor, the fee listed in the schedules in Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter, and Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter, for each inspection made by a qualified inspector.

- (1) The fees for scheduled inspections delayed or canceled by the requester, shall be charged to the requester in accordance with the scheduled fee for the type of inspection scheduled; however, if the notice of cancellation or delay of the scheduled inspection is provided at least forty-eight hours prior to the scheduled date and time, not counting weekends and state holidays, no additional fee will be charged. A delayed inspection includes situations where the equipment is not ready for the inspection or the requester is not ready to conduct the required tests within one hour of the scheduled date and time.
- (2) Where an inspection must be re-scheduled due to untimely notification of delay or cancellation, the

- appropriate inspection fee must be paid prior to the re-scheduling of the inspection.
- (3) Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required or requested to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
 - (4) When an unscheduled inspection is made at the request of the owner, contractor, or vendor, the sum of expenses incurred shall be charged in addition to the inspection fee.
 - (5) Whenever the requester of an inspection fails to pay the fees required pursuant to this section within sixty days after notification, the requester shall pay, in addition to the fees required, a penalty equal to fifty per cent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification. For online inspection requests, fees must be paid at the time of the request, except for additional fees for unscheduled, return, or overtime inspections for which the amount owed could not be determined in advance. In such cases, the requester shall be invoiced by the department. If the online fee transaction fails due to insufficient funds or inadequate financial routing instructions, an additional fee of \$5 shall be assessed for the cost of the initial notification to the requester of the failed transaction.
 - (6) Departmental reports of inspections for which expenses must be added to the basic fee shall be accompanied by an itemized account of the inspections made and the expenses incurred.
 - (7) For elevators that have considerable rise but few openings, such as observation or deep well elevators, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
 - (8) The department shall charge and collect the fee listed in Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated July 1, 2012 which is made a part of this chapter and located at the end of this chapter, for each category 3 or 5, or internal escalator inspection, witnessed by qualified

inspectors of the department during regular working hours. If the inspector is required or requested to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.

(b) Departmental installation and alteration permit and test fees.

- (1) The department, before accepting an application for installing, constructing, re-constructing, or relocating an elevator or a related system, shall charge and collect a fee for each object in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter.
- (2) The department, before accepting an application for an alteration, shall charge and collect a fee for each object in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter. For online applications, fees must be paid electronically at the time of the application. If the online fee transaction fails due to insufficient funds or inadequate financial routing instructions, an additional fee of \$5 shall be assessed for the cost of the initial notification to the requester of the failed transaction. Any subsequent transaction failure shall void the application.
- (3) For each instance requiring an installation or alteration permit fee, the department shall provide the final installation drawing review, inspection and witnessing of the initial acceptance test on the installation, any resulting permit to operate, and one additional follow-up inspection per permit, and the follow-up inspection shall be at the convenience of the department.
- (4) Fees in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter, or the fee in effect on the application submittal date

- shall be charged and collected for all applications for installation or alteration permits.
- (5) For additional follow-up inspections for final acceptance, the fee shall be \$300 per day for up to two hours and \$600 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
- (6) For elevators that have considerable rise but few openings, such as observation or deep well elevators, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
- (c) Amusement rides, fees.
- (1) The fee for an inspection of an amusement ride shall be \$100.
- (2) Inspections, for which a fee is to be charged, shall include, but are not limited to:
- (A) A reinspection of a ride at a site to allow it to operate at that site after the ride was found at an earlier inspection to be unsafe;
- (B) An inspection made at a site after being unable to complete an earlier inspection at that site due to delay within the control of the requester;
- (C) A permit to operate; and
- (D) Scheduled inspections delayed or canceled by the requester where notification was provided to the department less than forty-eight hours prior to the scheduled inspection date and time (not including weekends and state holidays).
- (3) When an unscheduled inspection is made at the request of the owner or contractor, the sum of expenses incurred shall be charged in addition to the inspection fee.
- (4) For additional follow-up inspections for final acceptance, the fee shall be \$300 per day for up to two hours and \$600 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
- (5) Whenever the requester fails to pay the fees required under this section within sixty days after notification, the requester shall pay, in addition to the fees required, a penalty equal to fifty per cent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification. For online inspection requests, fees

must be paid at the time of the request, except for additional fees for unscheduled, return, or overtime inspections, which will be invoiced to the requester. If the online fee transaction fails due to insufficient funds or inadequate financial routing instructions, an additional fee of \$5 shall be assessed for the cost of the initial notification to the requester of the failed transaction. [Eff and comp] (Auth: HRS §397-4)
(Imp: HRS §397-5)

[§12-229-7 Complaints (a) Complaints may be made to the department and where reasonable grounds exist for the department to believe there may be a hazard, there shall be an inspection in response to the complaint.

(b) Names of all complainants and witnesses shall be held in confidence by the department, unless prior permission has been given by the complainant or witness to release his or her name, or unless it has been determined by the attorney general that disclosure is necessary for enforcement and review of this chapter.] [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-7.1 Inspections and tests. (a) The department shall inspect to ensure compliance with chapter 397, HRS, any activity related to the erection, construction, alteration, demolition, or maintenance of buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, underground pipelines or ducts, and other construction projects or facilities containing elevators or kindred equipment.

- (b) Elevators and kindred equipment.
- (1) All permit renewal inspections and witnessing of tests of elevators or kindred equipment as required under this chapter, shall be performed by qualified inspectors employed by the department.
 - (2) Where notations of discrepancies, recommendations, or requirements are made, these notations shall refer to the applicable code, rule, or standard.
 - (3) Elevator or kindred equipment regulated under this part shall be inspected and tested in accordance with the schedule in Exhibit C, titled "Inspection and Test

Intervals (In Months)", dated July 1, 2012, which is made a part of this chapter and located at the end of this chapter.

- (A) Internal inspections of escalators and moving walks shall be performed at intervals of thirty-six months.
 - (B) Personnel hoists shall be load tested at intervals of six months.
 - (C) The category 3 test may be waived or the interval extended at the discretion of the department for those hydraulic elevator installations such as holeless hydraulic elevators in which all components are readily accessible for visual inspection.
 - (D) The period between inspections may be extended by the department for cause. A written application by the owner must be received by the department prior to the expiration date for review.
- (4) Any elevator or kindred equipment which is out-of-service and not continuously maintained for a period exceeding one year or has not been inspected in accordance with paragraph (3) shall be taken out of service by the owner by complying with the following:
- (A) Car and counterweight (if any) shall be landed at the bottom of the hoistway and hoisting ropes shall be disconnected at both ends;
 - (B) All electric power shall be removed by disconnecting and removing the power feeders; and
 - (C) All hoistway entrances or escalator entrances and exits shall be permanently blocked or barricaded to prevent inadvertent entry.
- The owner or the owner's agent shall submit a certification that the unit has been properly taken out of service as indicated in this paragraph, on a form provided by the department. Prior to placing the elevator or kindred equipment back in service, the department shall be notified and an inspection made.
- (5) While conducting tests and inspections required by section 12-229-5.1 for acceptance of new elevators for load testing of elevators, a positive means of communication, such as a walkie-talkie system, between the various testing and witnessing personnel shall be furnished by the elevator maintenance company performing the test or inspection.
- (c) Amusement rides.

- (1) The department shall inspect and witness load tests, in accordance with ASTM-F24 and section 12-250-7, at least semi-annually, for all amusement rides at a carnival, circus, fair, amusement park, or other public venue, for protecting the safety of the public.
- (2) After the initial inspection, each amusement ride shall be inspected as often as necessary to ensure safe operation but not less than twice annually at intervals of not less than five months nor greater than seven months.
- (3) If the department finds, upon inspection, that an amusement ride is in a safe operating condition and meets with the requirements of this chapter and chapter 12-250, the department shall affix to the ride in a prominent location a permit to operate bearing upon its face the date of the inspection and the permit expiration date.
- (4) No ride shall be operated unless it has affixed to it a current permit to operate. [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

[§12-229-8 Reporting of accidents. (a) Whenever an accident occurs involving either an amusement ride, or an elevator and kindred equipment, the owner, user, or maintenance company shall promptly notify the division by submitting a detailed accident report. For reporting purposes, accident is defined as an occurrence resulting in damage to an elevator and kindred equipment and amusement device rendering it inoperative or any occurrence resulting in physical injury to person(s) requiring treatment by a physician.

(b) Whenever an accident occurs which results in loss of life or inpatient hospitalization, the owner, user, or maintenance company shall promptly notify the division by telephone at (808) 586-9141, or messenger within forty-eight hours, and neither the amusement ride, or elevator and kindred equipment, or any of their parts, shall be removed or disturbed before permission has been given by the department except for the purpose of saving human life and limiting consequential damage.

(c) Additional reports, in writing or otherwise, may be required by the director.] [Eff 6/19/00;
R] (Auth: HRS §397-4) (Imp: HRS §397-4)

S12-229-8.1 Rights and enforcement. (a) Rights.

- (1) Authorized representatives of the director may enter without delay during regular working hours and at other reasonable times, any place, establishment, or premises in which are located amusement rides, or elevators and kindred equipment requiring inspection pursuant to chapter 397, HRS.
- (2) The department may question any employer, owner, operator, agent, or employee in investigation, enforcement, and inspection activities covered by this chapter.
- (3) Any employee of the State acting within the scope of the employee's office, employment, or authority under this chapter shall not be liable for or made a party to any civil action growing out of administration and enforcement of chapter 397, HRS.

(b) Enforcement.

- (1) Whenever the right of entry to a place to inspect an amusement ride, elevator, or kindred equipment required by this chapter to be inspected is refused to an authorized representative of the director, the department may apply to the circuit court where the equipment is located for a search warrant providing on its face that the wilful interference with its lawful execution may be punished as a contempt of court.
- (2) Whenever the department finds that the construction of or the operation of any amusement ride, or elevator and kindred equipment required to be inspected under this part is not safe, or that any practice, means, method, operation, or process employed or used is unsafe or is not in conformance with the standards and codes adopted pursuant to chapter 91, HRS, the department shall issue an order to render the construction or operation safe or in conformance with chapter 397, HRS, or its standards and codes and deliver the same to the contractor or owner. Each order shall be in writing and may be delivered by mail, electronically, or in person. The department may in the order direct that, in the manner and within a time specified, such additions, repairs, improvements, or changes be made and such safety devices and safeguards be furnished, provided, and used as are reasonably required to ensure compliance with the purposes and provisions of chapter 397, HRS. An order to bring the operation of elevator or kindred equipment into compliance may require the owner to

- submit a plan of compliance that addresses interim corrective plans to ensure public and worker safety as well as the schedule for the correction of the non-conforming element. A plan of compliance shall not exceed five years for residential buildings or three years for all other buildings. The owner or contractor shall obey and observe all orders issued by the department or be subject to appropriate civil penalties.
- (3) Whenever, in the opinion of the department, the condition of or the operation of amusement rides, or elevators and kindred equipment required to be inspected by chapter 397, HRS, or any practice, means, method, operation, or process employed or used, is unsafe, or is not properly guarded, or is dangerously placed, its use may be prohibited by the department. An order to that effect shall be posted prominently on the equipment or near the place or condition referred to in the order. The order shall be removed when a determination has been made by an authorized representative of the department that the amusement rides, or elevators and kindred equipment are safe and the required safeguards or safety devices are provided.
- (4) Pursuant to section 397-4(d)(4), HRS, when an imminent hazard exists, the department may apply for a restraining order from a circuit court to effect enforcement restraining the use or operation until the use or operation is made safe.
- (5) Pursuant to section 397-4(d)(5), HRS, the director, or an authorized representative, shall have the same powers as are possessed by the court respecting administering of oaths, compelling attendance of witnesses, producing documentary evidence, and examining witnesses or causing them to be examined, and may take depositions and certify to official acts.
- (6) Where a condition or practice involving any amusement ride, or elevator and kindred equipment required to be inspected by chapter 397, HRS, could reasonably be expected to cause death or serious physical harm, the department shall have the right, independent of any other enforcement powers under this chapter, to:
- (A) Immediately take steps to obtain abatement by informing the owner, contractor, and all persons in harm's way of the hazard by meeting, posted notice, or otherwise;

- (B) Take steps to immediately obtain abatement through direct control or elimination of the hazard if, after reasonable search, the owner, contractor, or their representative is not available;
 - (C) Take steps to obtain immediate abatement when the nature and imminence of the danger or hazard does not permit a search for the owner or contractor; and
 - (D) Where appropriate, initiate necessary legal proceedings to require abatement by the owner or contractor.
- (7) The department may prosecute, defend, and maintain actions in the name of the department for the enforcement of the provisions of chapter 397, HRS, including the enforcement of any order issued by it, the appeal of an administrative or court decision, and other actions necessary to enforce chapter 397, HRS.
 [Eff and comp] (Auth: HRS §397-4)
 (Imp: HRS §§397-4, 397-6, 397-8)

[§12-229-9 Investigations. The department shall investigate, in accordance with section 12-229-8 accidents involving amusement rides, and elevators and kindred equipment inspected under this chapter and may issue orders and recommendations with respect to the elimination and control of the cause factors.] [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6)

§12-229-9.1 Complaints. (a) Complaints may be made to the department and where reasonable grounds exist for the department to believe there may be a hazard, there shall be an inspection in response to the complaint.

(b) Names of all complainants and witnesses shall be held in confidence by the department, unless prior permission has been given by the complainants or witnesses to release his or her names, or unless it has been determined by the state attorney general that disclosure is necessary for the enforcement and review under this chapter. [Eff and comp]
 (Auth: HRS §397-4) (Imp: HRS §397-7)

[§12-229-10 Violations and penalties. (a) The may assess all civil penalties provided in this section, giving due respect to the gravity of the violation, the good faith of the owner, user, consultant, contractor, or vendor, and the history of previous violations.

(b) Violations

(1) Any owner, user, consultant, contractor, or vendor who violates chapter 397, HRS, or any safety standards and codes adopted pursuant to chapter 91, HRS, or who violates or fails to comply with any order made under or by virtue of chapter 397, HRS, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguard, notice, order, or warning required by chapter 397, HRS, standards, or codes, shall be assessed a civil penalty of not more than \$10,000 for each such violation.

(2) Each day a violation continues shall constitute a separate violation except during an abatement period.

(c) Discrepancies and penalties.

(1) Any conditions found not in conformance with applicable standards or codes, adopted pursuant to chapter 397, HRS, shall be regarded as discrepancies and shall be made known to the owner, user, consultant, contractor, or vendor by letter or written "order to correct" or both. All discrepancies shall be satisfactorily resolved as soon as possible. When, in the opinion of the department, a discrepancy constitutes a potentially serious or imminent hazard, it may prohibit the use of the equipment until the condition is abated. Failure to abate unsafe conditions or failure to correct discrepancies within the time prescribed shall be a violation subject to the civil penalties prescribed in this section.

(2) Assessing penalties.

(A) Consideration shall be given to the gravity of the violation. For a violation that could not or probably would not result in serious harm to life or property, the penalty may be reduced by forty per cent.

(B) Consideration shall be given to the good faith of the owner, user, consultant, contractor, or vendor. For immediate correction or for attempts to make corrections or abate hazards that have been thwarted by conditions beyond the control of the owner, user,

consultant, contractor, or vendor, the penalty may be reduced by forty per cent.

(C) Consideration shall be given for the history of previous violations. For few or no previous violations by the owner, user, consultant, contractor, or vendor, the penalty may be reduced by twenty per cent.

(d) Anyone who knowingly makes a false statement on any document required by chapter 397, HRS, shall, upon conviction, be punished by fine or imprisonment or both. Any evidence suggesting that a false statement may have been made shall be immediately referred to the director, who shall consult with the attorney general for purposes of initiating appropriate action.] [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §397-8)

§12-229-10.1 Reporting of accidents. (a) Whenever an accident occurs involving either an amusement ride, or an elevator and kindred equipment, the owner shall promptly notify the division within eight hours by telephone at (808)586-9141. For reporting purposes, "accident" is defined as an occurrence resulting in damage to an elevator and kindred equipment and amusement device, including when it is rendered inoperative or any occurrence resulting in physical injury to person(s).

An accident report shall be submitted to the department within two calendar days after the owner has completed the accident investigation, and shall include the following information:

- (1) The date and time of the accident;
- (2) Hawaii registration number (HAW number) of the amusement ride, elevator or kindred equipment involved;
- (3) Name and address of the victim(s);
- (4) A brief description of the accident, including the nature and scope of the injuries;
- (5) Whether the amusement ride, elevator or kindred equipment sustained any damage rendering it inoperative for any period of time;
- (6) Names and contact information of any witnesses interviewed;
- (7) A brief description of any inspections or tests conducted of the equipment to determine probable causation and who conducted them;
- (8) The investigators' conclusions as to the cause of the accident; and

(9) The name and contact information of the investigator.

For purposes of this section, the owner may contract another to perform the actual accident investigation, however, the owner is responsible for the report and its timely submittal to the department. If the accident investigation cannot be completed within three months of the date of the incident, the owner shall submit the incomplete report to the department with information as to when the investigation is expected to be completed. The final report shall be submitted as soon as the investigation is completed.

(b) Whenever an accident occurs which results in loss of life, the owner shall promptly notify the division by telephone at (808)586-9141, or messenger, within eight hours, and neither the amusement ride, or elevator and kindred equipment, or any of their parts, shall be removed or disturbed before permission has been given by the department except for the purpose of saving human life or limiting consequential damage.

(c) Additional reports, in writing or otherwise, may be required by the director. [Eff and comp]
 (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-11 Review and appeal. (a) Any order of the director shall be final and conclusive against an owner, user, vendor, consultant, or contractor unless an appeal is made in writing, clearly stating what items are being contested. Such request for reconsideration must be addressed to the administrator and received or, if mailed, postmarked no later than the 20th calendar day following receipt of such an order.

(b) An owner, user, vendor, consultant, or contractor may petition the director for modification of the abatement requirements in an order, as provided in chapter 397-9, HRS.]
 [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §397-9)

§12-229-11.1 Investigations. The department may investigate accidents reported under section 12-229-10.1 involving amusement rides, and elevators and kindred equipment inspected under this chapter and may issue orders and recommendations with respect to the elimination and control of the causal factors. [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6)

[§12-229-12 Trade secrets. Information obtained by the department containing or revealing a trade secret shall be held confidential and access shall be limited to authorized representatives of the director concerned with carrying out chapter 397, HRS.] [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §397-11)

§12-229-12.1 Violations and penalties. (a) The director may assess all civil penalties provided in this section, giving due consideration to the gravity of the violation, the good faith of the owner or contractor, and the history of previous violations.

(b) Violations.

- (1) Any owner or contractor who violates chapter 397, HRS, or any safety standards and codes adopted pursuant to chapter 91, HRS, or who violates or fails to comply with any order made under or by virtue of chapter 397, HRS, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguard, notice, order, or warning required by chapter 397, HRS, its standards, or codes, shall be assessed a civil penalty of not more than \$10,000 for each such violation.
- (2) Any owner who allows the installation, construction, reconstruction, relocation, or alteration of any elevator or kindred equipment prior to obtaining an installation or alteration permit as required by section 12-229-5.1 shall be assessed a civil penalty of not more than \$10,000. The penalty may be reduced by a maximum of ten per cent for history of past violations.
- (3) Owners who fail to report an accident as required by section 12-229-10.1 shall be assessed a civil penalty of not more than \$5,000 per instance. Consideration may be given for good faith and history of violations.
- (4) Owners who fail to maintain or provide records or reports to the department as required by this part shall be assessed a civil penalty of not more than \$5,000 per record not maintained or provided.
- (5) Repeated violations shall be assessed a civil penalty of not more than \$10,000. Consideration may be given for gravity only.
- (6) Owners who fail to properly take an elevator or kindred equipment out-of-service as specified in

section 12-229-7.1(b) (4) shall be assessed a civil penalty of not more than \$10,000.

- (7) Each day a violation continues shall constitute a separate violation except during an abatement period.
- (c) Discrepancies and penalties.
 - (1) Any conditions found not in conformance with applicable standards or codes adopted pursuant to chapter 397, HRS, shall be regarded as discrepancies and shall be made known to the owner or contractor by letter or written order to correct or both. All discrepancies shall be satisfactorily resolved as soon as possible. When, in the opinion of the department, a discrepancy constitutes a potentially serious hazard, the department may prohibit the use of the equipment until the condition is abated. Failure to abate unsafe conditions or failure to correct discrepancies within the time prescribed shall be a violation subject to the civil penalties prescribed in this section.
 - (2) Assessing penalties.
 - (A) Consideration shall be given to the gravity of the violation. For a violative condition that could not or probably would not result in serious harm to life the penalty may be reduced by forty per cent.
 - (B) Consideration shall be given to the good faith of the owner or contractor. For immediate correction or for attempts to make corrections or abate hazards that have been thwarted by conditions beyond the control of the owner or contractor, the penalty may be reduced by forty per cent.
 - (C) Consideration shall be given for the history of previous violations. For few or no previous violations by the owner or contractor, the penalty may be reduced by ten per cent.
 - (d) Anyone who knowingly makes a false statement on any document required by chapter 397, HRS, shall, upon conviction, shall be punished by a fine of not more than \$10,000 or imprisonment or both. Any evidence suggesting that a false statement may have been made shall be immediately referred to the director, who shall consult with the state attorney general for purposes of initiating appropriate action. [Eff and comp

] (Auth: HRS §397-4) (Imp: HRS §397-8)

[§12-229-13 Notification of transfer and location. (a)

The contractor, erector, seller, vendor, or any person responsible for the transfer of ownership shall notify the department in writing within 30 calendar days giving the address, name, and phone number of the purchaser for any elevator and kindred equipment except those exempted by subsection 12-229-5(a) sold in this jurisdiction.

(b) The owner or user of any elevator, dumbwaiter, escalator, or moving walk who sells, gives, or removes the device shall report the transaction and the name and address of the new owner or user within ten calendar days of the transaction to the department.] [Eff 6/19/00;
R] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-13.1 Review and appeal. (a) Any order or citation of the director shall be final and conclusive against an owner or contractor, unless an appeal is made in writing, clearly stating what items are being contested. The notice of contest must be addressed to the director and received or, if mailed, postmarked by no later than the twentieth calendar day following receipt of the order or citation.

(b) The director or the director's designee may hold a formal hearing, which shall result in a decision and order by the director. Any party who disagrees with the director's decision may appeal in writing to the director within twenty calendar days of receipt of the decision and order. The director shall promptly notify the labor and industrial relations appeals board of the notice of contest. Where a prior formal hearing is held at the department level, the labor and industrial relations appeals board shall conduct a case review using only the record.

(c) An owner or contractor may petition the director for modification of the abatement requirements in an order, as provided in section 397-9, HRS. [Eff and
comp] (Auth: HRS §397-4) (Imp: HRS §397-9)

[§12-229-14 Variances. (a) In cases of practical difficulties, undue hardships, or new developments, an owner, user, contractor, or vendor may apply for a variance from any elevator safety standard. The application must be in writing, clearly stating the standard from which a variance is sought, the conditions, means, practices, methods, operations, or processes

proposed to be used, together with drawings, specifications, and other supporting data. The director may issue an order for a variance if what is proposed will provide a substantially equivalent level of safety to that provided by the standard.

(b) All variances granted pursuant to this chapter shall have only a future effect. The director may decline to entertain an application for variance on a subject or issue for which a citation has been issued to the owner or user involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending.

(c) Every final action granting a variance shall be published in a paper of general circulation within thirty calendar days following the action. The cost of such publication shall be borne by the petitioning party. Every final action shall specify the alternative to the standard involved which the particular variance permits.

(d) If an application does not conform to the applicable section, the director may deny the application. Notice of the denial of an application shall be given to the applicant within thirty calendar days. A notice of denial shall include a brief statement of the grounds for the denial. A denial of an application shall be without prejudice to the filing of another application. If a variance is not acted upon within ninety calendar days, it shall be deemed granted.

(e) Requests for hearing on applications denied. Any affected owner/user may file with the director, in triplicate, a request for a hearing on the application.

- (1) A request for a hearing filed pursuant to subsection (a) above shall include:
 - (A) A concise statement of facts showing how the owner/user would be affected by the relief for which the application was made;
 - (B) A specification of any statement or representation in the application which is denied, and a concise summary of the evidence that would be adduced in support of each denial; and
 - (C) Any views or arguments on any issue of fact or law presented.
- (f) Notice of hearing.
 - (1) Upon request for a hearing pursuant to this chapter, the director shall serve reasonable notice of hearing.
 - (2) A notice of hearing shall include:
 - (A) The time, place and nature of the hearing;
 - (B) The legal authority under which the hearing is to be held;

- (C) A specification of issues of fact and law; and
 - (D) A designation of a hearing examiner appointed by the director to preside over the hearing.
- (3) A copy of a notice of hearing shall be referred to the hearing examiner together with the original application and any written request for a hearing.]
 [Eff 6/19/00; R] (Auth: HRS §397-4)
 (Imp: HRS §397-4)

§12-229-14.1 Trade secrets. Information obtained by the department containing or revealing a trade secret shall be held confidential and access shall be limited to authorized representatives of the director for purposes of carrying out chapter 397, HRS. [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-11)

[§12-229-15 Records. Records shall be maintained by the elevator inspection branch for the purpose of preserving reports of inspections, witnessing of test and accident investigations, correspondence, prints, and memoranda for all objects inspected pursuant to these rules. These reports of inspections, witnessing of test and accident investigations, correspondence, prints, and memoranda shall be maintained for a period of not less than five years for elevators and kindred equipment.] [Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-15.1 Notifications of transfer and location. (a) The seller of any elevator or kindred equipment regulated by this part shall notify the department in writing using a form provided by the department within thirty calendar days of the sale giving the registration number (HAW number), location name, location address of the equipment, and the name and address of the purchaser.

(b) The owner of any elevator or kindred equipment who gives, scraps, demolishes, or removes the device shall report the transaction and the name and address of the new owner, if any, within thirty calendar days of the transaction to the department using the form provided by the department. [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

Table 229-1

ELEVATOR AND KINDRED EQUIPMENT INSTALLATION FEES

September 1, 1998

Dumbwaiter	\$265]
Escalator, electric stairway, or moving walk	\$375
Incline stairway lift	\$190
Incline wheelchair lift	\$190
Manlift	\$225
Vertical wheelchair lifts	\$190
<u>Elevator</u>	
8-floor rise or under	\$300
9-floor rise but not over 18 floors	\$340
19-floor rise but not over 28 floors	\$375
29-floor rise but not over 38 floors	\$415
39-floor rise and over	\$450
Temporary use of permanent elevators	\$150
Aerial tramways	\$355
Personnel hoists	\$200
Inclined lifts	\$300
Alteration Permit	\$150

TABLE 229-2

ELEVATOR AND KINDRED EQUIPMENT INSPECTION FEES

September 1, 1998

Dumbwaiter	\$ 90
Escalator, electric stairway, or moving walk	\$100
Hand elevator, man lift, or stage lifts	\$100
Inclined stairway lift	\$100
Inclined wheelchair lift	\$100
Vertical wheelchair lifts	\$100
<u>Power elevators</u>	
Hydraulic elevator	\$105
8-floor rise or under	\$155
9-floor rise but not over 18 floors	\$175
19-floor rise but not over 28 floors	\$200
29-floor rise but not over 38 floors	\$230
39-floor rise and over	\$255
Aerial tramways	\$300
Personnel hoists	\$120
Inclined lifts	\$160
3-Year Safety Test	\$160
5-Year Safety Test	\$195
Report and permit processing	\$20]
[Eff 6/19/00; R] (Auth: HRS §397-4) (Imp: HRS
§397-4)	

§12-229-16.1 Variances. (a) In cases of practical difficulties, undue hardships, or new developments, an owner may apply for a variance from any elevator safety standard. The application must be in writing, clearly stating the standard from which a variance is sought, the conditions, means, practices, methods, operations or processes proposed to be used, together with drawings, specifications, and other supporting data. The director may issue an order for a variance if what is proposed will provide a substantially equivalent level of safety to that provided by the standard.

(b) All variances granted pursuant to this chapter shall have only a future effect. The director may decline to entertain an application for variance on a subject or issue for which a discrepancy letter or citation has been issued to the owner or contractor involved and the discrepancy or violation has not yet been satisfactorily corrected or resolved.

(c) Before granting the variance, the director shall publish a notice in a paper of general circulation notifying all potentially affected parties of the director's intent to grant the variance. The notice shall provide a period of thirty calendar days to object to the granting of the variance, after which time the variance shall become final if no objections are filed or a hearing is requested. The cost of the publication shall be borne by the petitioning party. Every notice shall specify the alternative to the safety standard being considered.

(d) Any party objecting to the granting of the variance must notify the director in writing within the thirty-day period, stating the reasons why the variance should not be granted and the resultant specific impact on public safety. The objecting party's reasons for objection may also be based on grounds other than impact on public safety such as feasibility of compliance or lack of undue hardship to the petitioner. The objecting party may also elect to provide the reasons for the objection at a hearing.

(e) The hearing requested by the objecting party shall be held no later than forty-five days after the thirty-day period stated in the public notice.

- (1) The objecting party or parties and the variance applicant shall be provided notice of the date, time, and place of the hearing at least fourteen calendar days before the scheduled hearing.
- (2) Each party shall be prepared to provide evidence supporting the party's case, including a brief oral statement summarizing such evidence.
- (3) The director shall provide a written determination to all parties.

- (4) If the director determines that the evidence does not support denial of the variance request, no further notice is required.
- (5) If the director determines that the evidence supports a denial of the variance request, a notice shall be published in a newspaper of general circulation stating the reasons why the variance is not granted.
- (f) If the variance application does not include all relevant information as indicated in subsection (a), the director may deny the application. The denial shall be submitted in writing to the applicant within thirty calendar days. A notice of denial shall include a brief statement of the grounds for the denial. A denial of an application shall be without prejudice to the filing of another application.
- (g) Requests for reconsideration on denied variance requests. The variance applicant whose variance request was denied may file a petition for reconsideration of the denial with the director. The petition must be filed in writing within twenty calendar days of the denial notice and should include all pertinent facts regarding why the variance should be granted.
 - (1) The director may review the record on the case along with any additional information provided by the applicant or conduct further inquiries on the matter.
 - (2) Any party objecting to the director's decision shall use the review and appeal process as provided for in in section 12-229-13.1. [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-17 Records. Records shall be maintained by the elevator inspection branch of the department of labor and industrial relations for the purpose of preserving reports of inspections, witnessing of test and accident investigations, correspondence, prints, and memoranda for all objects inspected pursuant to this chapter. These records shall be maintained for a period of not less than five years for amusement rides, and elevators, and kindred equipment." [Eff and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

EXHIBIT A
ELEVATOR AND KINDRED EQUIPMENT INSTALLATION AND
ALTERATION FEES
July 1, 2012

Alterations¹:

Involving only the replacement of up to two parts (such as a valve, a jack or a cylinder)	\$150
Involving only cosmetic changes (such as car interior modernizations)	\$300
Involving more than two parts, or components and/or subsystems:	
1-3 floors	\$600
4-9 floors	\$650
10-19 floors	\$700
20-29 floors	\$750
30-39 floors	\$800
40 or more floors	\$900

New Installations²

Dumbwaiter or material lift	\$500
Escalator, moving walk, or moving ramp	\$500
Platform lifts or stairway chairlifts	\$500
Elevator:	
1-3 floors	\$600
4-9 floors	\$650
10-19 floors	\$700
20-29 floors	\$750
30-39 floors	\$800
40 or more floors	\$900
Personnel hoists	\$250
Temporary use permits (construction car)	\$450

Additional inspections:

Normal workday, up to two hours	\$300/day
Normal workday, more than two hours	\$600/day
Overtime hours, up to two hours	\$600/day
Overtime hours, more than two hours	\$1,200/day

¹Where alterations to four or more units at the same location are identical, the fee for each additional alteration permit (beyond the initial four) shall be reduced by fifty percent. The applications shall be submitted at the same time to qualify for the fee reduction.

²For elevators which have considerable rise but few openings, such as observation or deep-well elevators, each ten feet of vertical rise shall be considered one floor for the purpose of determining installation or alteration permit fees.

EXHIBIT B

ELEVATOR AND KINDRED EQUIPMENT INSPECTION FEES

July 1, 2012

Permit and Renewal Inspection Fees:	
Dumbwaiter or material lift	\$140
Escalator, moving walk, or moving ramp	\$150
Platform Lift or Stairway Chairlift _____	\$150
Hydraulic elevator - holed	\$150
Hydraulic elevator - holeless	\$200
Traction elevators:	
1-3 floors	\$225
4-9 floors	\$250
10-19 floors	\$275
20-29 floors	\$325
30-39 floors	\$400
40 or more floors	\$475
Personnel hoist	\$175
Temporary Use Permit (construction car)	\$150
Safety, load or internal test (witness fees):	
Category 3 test	\$200
Category 5 test	\$300
Escalator, internal	\$100

Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.

EXHIBIT C

INSPECTION AND TEST INTERVALS (IN MONTHS)

July 1, 2012

Equipment Type	Permit Renewal	Category 3	Category 5
Electric elevators	12	N/A	60
Hydraulic elevators	12	36	N/A
Escalators and moving walks ¹	6	N/A	N/A
Dumbwaiters	6	36	60
Material lifts	6	36	60
Platform lifts and stairway chairlifts	6	N/A	N/A
Inclined elevators	12	36	60
Screw-column elevators	12	36	60
Roof-top elevators	12	36	60
Limited-use/limited- application elevators	3	36	60
Construction cars	3	36	60
Personnel hoists ²	3	N/A	N/A
Amusement rides	6	N/A	N/A

¹Internal inspections of escalators and moving walks shall be performed at intervals of 36 months.

²Personnel hoists shall be load tested at intervals of 6 months.

Where an equipment is listed under both Category 3 of 36 months and Category 5 of 60 months, the appropriate testing interval is dependent on whether the lifting mechanism is rope or hydraulic or a combination of rope and hydraulic."

5. Section 12-240-1, Hawaii Administrative Rules, is amended to read as follows:

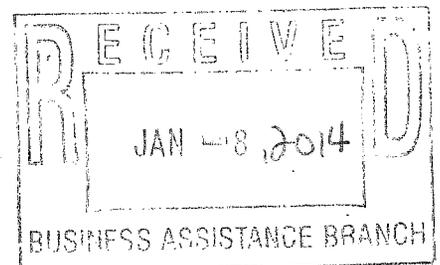
"§12-240-1 General. Passenger elevators which have had their architectural plans reviewed for installation permit after December 6, 1990, shall have accessible elevators on an accessible route and shall comply with American National [standards] Standards Institute specifications for making building and facilities accessible to and usable by persons with disabilities (ANSI A117.1-1986) and with the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ASME A17.1 1996. This standard does not preclude the use of residential or fully enclosed wheelchair lifts when appropriate and approved by administrative authorities. Freight elevators shall not be required to meet the requirements of this section, unless the only elevators provided are used as combination passenger and freight elevators for the public and employees." [Eff 12/6/90; am 11/5/93; am 7/6/98; am] (Auth: HRS §397-4) (Imp: HRS §397-4)

6. Chapters 12-230, 12-231, 12-232, 12-233, 12-234, 12-235, 12-236, 12-237, 12-238, and 12-239, Hawaii Administrative Rules, are repealed.

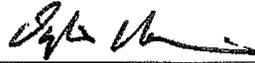
7. Material, except source notes, to be repealed is bracketed. New material is underscored.

8. Additions to update source notes to reflect these amendments are not underscored.

The adoption of chapters 12-230-1, 12-232.1, and 12-234.1, the adoption and compilation of chapter 12-229, the amendments to chapter 12-240, and the repeal of chapters 12-230, 12-231, 12-232, 12-233, 12-234, 12-235, 12-236, 12-237, 12-238, and 12-239, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



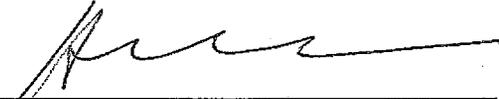
I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on and filed with the Office of the Lieutenant Governor.



DWIGHT TAKAMINE

Director, Department of
Labor and Industrial
Relations

APPROVED AS TO FORM:



Deputy Attorney General

Exhibit A

Chair's Monthly Report for
January 2014

1. Reviewed and approved memoranda corresponding to administrative rules reviewed at December board meeting
2. Board meeting preparation – January agenda, December minutes, review of noted administrative rules on agenda
3. Attended meeting with Attorney General David Louie and Debbie Emerson on January 8, 2014
4. Congratulatory and thank you notes to Speaker Souki, Ken Kitamura, and Harris Nakamoto